

WEDNESDAY



THE COMPANIES ACTS 1985 - 2006

COMPANY LIMITED BY GUARANTEE

AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION OF

NICHOLLS CLOSE MANAGEMENT COMPANY LIMITED

Company Number 5539655

Amended by resolution dated 28<sup>th</sup> January 2009

**1. Preliminary**

The Regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 as amended (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied hereby and such Regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the regulations of the Company.

2. Clause 2 to 35 (inclusive), 38, 41, 44, 54, 55, 57, 59, 64, 76 to 80 (inclusive), 87, 94 to 97 (inclusive), 102 to 108 (inclusive), 110, 114, 116, 117 and 118 of Table A shall not apply to the Company.

**3. Interpretation**

**3.1 In these Articles:-**

"the Developer"	Linden Homes South-East Limited
"Dwelling"	means any residential unit comprised in the Estate
"Dwellingholder"	means the person or persons to whom a head lease or tenancy of a dwelling has been granted by the Developer or to whom any such lease is assigned or who holds the freehold of a dwelling and so that whenever two or more persons are for the time being dwellingholders of a dwelling they shall for all purposes of these Articles be deemed to constitute one dwellingholder
"the Estate"	shall have the meaning assigned to it in the Memorandum of Association but shall also include any other land building or premises for the time being also owned and/or managed or

administered by the Company from time to time

"Member" shall from time to time mean both the Special Members (if any) and the Ordinary Members

4. Clause 1 in Table A shall be read and construed as if the definition of "the holder" were omitted therefrom.

#### **Members**

5. The Special Members of the Company shall be:
  - a) the subscribers to the Memorandum of Association
  - b) any two nominees by the Developer
  - c) any person nominated by a Special Member to succeed him as a Special Member of the Company
  - d) any additional person appointed in writing by the Special Members acting unanimously
  - e) any person appointed in writing as a Special Member by a Director of the Company

Provided that the number of Special Members shall not be greater than three.

6. Every Special Member of the Company shall cease to be a Member upon the Special Member giving notice of resignation in writing to the Company Secretary provided always that if the Member is a Dwellingholder he shall continue to be an Ordinary Member.
7. The Company must accept as an Ordinary Member of the Company every person who is or who shall have become a Dwellingholder and has complied with either of the signature provisions set out in clause 8 below. No person shall be admitted as an Ordinary Member of the Company other than a Dwellingholder.
8. The provisions of Section 352 of the Companies Act 1985 shall be observed by the Company and every Dwellingholder shall either sign a written consent to become a Member or sign the Register of Members on becoming a Member. If two or more persons are together a Dwellingholder each shall so comply and the person whose name first appears in the Register of Members shall exercise the voting powers vested in such Member.
9. A Dwellingholder shall cease to be a Member on the registration as a Member of the successor to his Dwelling and shall not resign as a Member while holding whether alone or jointly with others a legal estate in any Dwelling.
10. If a Member shall die or be adjudged bankrupt his legal personal representative or

representatives or the trustee in his bankruptcy shall be entitled to be registered as a Member provided that he or they shall for the time being be a Dwellingholder.

### **General Meetings and Resolutions**

11. An Annual General Meeting and a General Meeting called for the passing of a Special Resolution or a Resolution appointing a Member as a Director shall be called by at least 21 clear days notice. All other General Meetings shall be called by at least 14 clear days notice but a General Meeting may be called by shorter notice if it is so agreed:-
  - 11.1 in the case of an Annual General Meeting by all the Members entitled to attend and vote thereat; and
  - 11.2 in the case of any other General Meeting by a majority in number of the Members having a right to attend and vote being a majority together holding not less than 95% of the total voting rights at the Meeting of all the Members.
12. The notice of a Meeting shall specify the time and place of the Meeting and in the case of an Annual General Meeting shall specify the Meeting as such.
13. The notice of the Meeting shall be given to all the Members entitled to attend and vote thereat and to the auditors (if any) and to every person being a legal personal representative or a trustee in bankruptcy of a Member where the Member but for his death or bankruptcy would be entitled to receive notice of the Meeting.
14. Any Member of the Company entitled to attend and vote at a General Meeting shall be entitled to appoint another person (whether a Member or not) as his proxy to attend and vote instead of him and any proxy so appointed shall have the same right as the Member to speak at the Meeting. Every notice convening a General Meeting shall comply with the provisions of Section 372(3) of the Companies Act 1985 as to giving information to Members in regard to their right to appoint proxies.
15. Clause 40 in Table A shall be read and construed as if the words "at the time when the Meeting proceeds to business" were added at the end of the first sentence.
16. If a quorum is not present within half an hour from the time appointed for a General Meeting the General Meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors may determine and if at the adjourned General Meeting a quorum is not present within half an hour from the time appointed therefor such adjourned General Meeting shall be dissolved.
17. Clause 46 in Table A shall be read and construed as if paragraph (d) was omitted therefrom.
18. Every Member present in person or by proxy at a General Meeting shall have one vote provided that until the Developer has delivered to the Company Secretary a certificate

confirming that the development of the Estate has been completed no Ordinary Member shall be entitled to attend or vote at any General Meeting or other meeting of the Company.

- 19 The appointment or removal of the Company's managing agents for the carrying out of the Company's objects in relation to the Estate is to be conducted only by a poll of all the Members entitled to attend and vote at an Annual General Meeting requiring a 51% majority of the members entitled to attend and vote at an Annual General Meeting
20. Unless called for by a majority of the members entitled to vote at an Annual General Meeting the Company may dispense with the requirement to hold an Annual General Meeting of the Company
- 21 Unless called for by a majority of the members entitled to vote at an Annual General Meeting the Company may dispense with the requirement to lay accounts and company reports before the Company in a general meeting

#### **Appointment of Directors**

22. The maximum number and minimum respectively of the Directors may be determined from time to time by Ordinary Resolution in General Meeting of the Company. Subject to and in default of any such determination there shall be no maximum number of Directors and the minimum number of Directors shall be two.
23. The Directors shall not be required to retire by rotation and Clauses 73 to 80 (inclusive) in Table A shall not apply to the Company.
- 24.1 Save for the persons who are deemed to have been appointed as the first Directors of the Company on incorporation pursuant to Section 13(5) of the Companies Act 1985 no person who is not a Member of the Company shall in any circumstances be eligible to hold office as Director.
- 24.2 If two or more persons are together a Dwellingholder only one of them may hold the office of Director
- 24.3 A Special Member shall be entitled to be a Director until the Special Member resigns the office by notice in writing to the Company
25. Clause 83 in Table A shall be read and construed as if the words "of any class of shares or" were omitted therefrom.
26. No Member shall be appointed a Director at any General Meeting unless either:-
  - 26.1 he is recommended by the Directors; or
  - 26.2 not less than fourteen nor more than thirty-five clear days before the date appointed for the

General Meeting notice executed by a Member qualified to vote at the General Meeting has been given to the Company of the intention to propose that Member for appointment together with notice executed by that Member of his willingness to be appointed.

27. Subject to clause 26 above the Company may by Ordinary Resolution in General Meeting appoint any Member who is willing to act to be a Director either to fill a vacancy or as an additional Director.
28. A majority in number of the Directors may appoint a Member who is willing to act to be a Director (subject always to the Member not being disqualified pursuant to the provisions of clause 33 below) either to fill a vacancy or as an additional Director provided that the appointment does not cause the number of Directors to exceed the maximum number of Directors for the time being in force, if a maximum number is in force.

#### **Borrowing Powers**

29. The Directors may exercise all the powers of the Company to borrow money without limit as to amount and upon such terms and in such manner as they think fit and to grant any mortgage charge or standard security over its undertaking and property or any part thereof and to issue debentures whether outright or as security for any debt liability or obligation of the Company or of any third party.

#### **Alternate Directors**

30. No person who is not a Member of the Company shall be capable of being appointed an alternate Director. Clause 65 in Table A shall be modified accordingly.
31. An Alternate Director shall not be entitled as such to receive any remuneration from the Company save that he may be paid by the Company such part (if any) to the remuneration otherwise payable to his appointor as such appointor may be notice in writing to the Company from time to time direct and the first sentence of Clause 66 in Table A shall be modified accordingly.
32. A Director or any other Member approved by resolution of the Directors and willing to act as an Alternate Director to represent more than one Director and an Alternate Director shall be entitled at any meeting of the Directors or of any committee of the Directors to one vote for every Director whom he represents in addition to his own vote (if any) as a Director but he shall count as only one for the purpose of determining whether a quorum is present.

#### **Disqualification of Directors**

33. The office of a Director shall be vacated if he ceases to be a Member of the Company or he becomes incapable by reason of illness or injury of managing and administering his property and affairs or if he shall in his capacity as a Dwellingholder owe the Company for a period of more than 14 days any sums in respect of the services provided by the Company in accordance with its objects and/or under the terms of the lease or transfer deed under which

he holds the Dwelling and shall not be entitled to be re-appointed as a Director until all such sums have been paid to the Company and the provisions of clauses 22 to 27 inclusive above have been complied with and Clause 81 in Table shall be modified accordingly.

#### **Gratuities and Pensions**

34. The Directors may exercise the powers of the Company conferred by Clause 3(j) of the Memorandum of Association of the Company and shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.

#### **Proceedings of Directors**

35. A Director may vote at any meeting of the Directors or of any committee of the Directors on any resolution notwithstanding that it in any way concerns or relates to a matter in which he has directly or indirectly any kind of interest whatsoever and if he shall vote on any such resolution as aforesaid his vote shall be counted and in relation to any such resolution as aforesaid he shall (whether or not he shall vote on the same) be taken into account in calculating the quorum present at the meeting.

#### **Minutes**

36. Clause 100 in Table A shall be read and construed as if the words "of the holders of any class of shares in the Company" were omitted therefrom.

#### **Notices**

37. Clause 112 in Table A shall be read and construed as if the second sentence was omitted therefrom. Clause 113 in Table A shall be read and construed as if the words "or of the holders of any class of shares in the Company" were omitted therefrom.
38. The Company may communicate with its Members by email or by posting information and/or documents onto the website of any managing agent it may appoint. However Members retain the right to receive information on paper if they so request it.

#### **Indemnity**

39. Subject to the provisions of, and so far as may be permitted by and consistent with the Companies Act 2006, every Director of the Company shall be indemnified by the Company out of its own funds against:
- (a) any liability incurred by or attaching to him in connection with any negligence, default, breach of duty or breach of trust by him in relation to the Company other than:
- (i) any liability to the Company or any Associated Company; and
  - (ii) any liability of the kind referred to in Section 234(3) of the Companies

Act 2006; and

- (b) any other liability incurred by or attaching to him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office.
- 40.1 Where a director is indemnified against any liability in accordance with Article 37, such indemnity shall extend to all costs, charges, losses, expenses and liabilities incurred by him in relation thereto.
- 40.2 Subject to the provisions of the Companies Act 2006, the Company (a) may provide a director with funds to meet expenditure incurred or to be incurred by him in defending any criminal, civil or regulatory proceedings or in connection with any application under the provisions mentioned in Sections 205 or 206 of the Companies Act 2006 and (b) may do anything to enable a director to avoid incurring such expenditure, but so that the terms set out in Section 205(2) of the Companies Act 2006 shall apply to any such provision of funds or other things done in connection with an application made under Section 205(1) of the Companies Act 2006.
- 40.3 In this Article 35, "Associated Company" shall have the meaning given thereto by Section 256 of the Companies Act 2006.

#### **Rules or Byelaws**

- 41. The Directors may from time to time make such Rules or Byelaws as they may deem necessary or expedient or convenient for the proper conduct and management of the Company and for the purposes of prescribing the classes of and conditions of membership and in particular but without prejudice to the generality of the foregoing they shall by such Rules or Byelaws regulate:-
  - 41.1 the admission and classification of Members of the Company and the rights and privileges of such Members and the conditions of membership and the terms on which Members may resign or have their membership terminated and the entrance fees subscriptions and other fees charges contributions or payments to be made by Members;
  - 41.2 the conduct of Members of the Company in relation to one another and to the Company and to the Company's servants or agents;
  - 41.3 the setting aside of the whole or any part or parts of the Estate at any particular time or times or for a particular purpose or purposes;
  - 41.4 the procedure at General Meetings and Meetings of the Directors and committees of the Directors of the Company insofar as such procedure is not regulated by these Articles;
  - 41.5 and generally all such matters as are commonly the subject matter of Company Rules or rules or regulations appropriate to the property of a similar nature and type as the Estate.

42. The Company in General Meeting shall have power to alter or repeal the Rules or Byelaws and to make additions thereto and the Directors shall adopt such means as they deem sufficient to bring to the notice of Members of the Company all such Rules or Byelaws which so long as they shall be in force shall be binding on all Members of the Company. Provided nevertheless that no Rule or Byelaw shall be inconsistent with or shall affect or repeal anything contained in the Memorandum or Articles of Association of the Company.