

Republic of South Africa

Companies Act, 2008

MEMORANDUM OF INCORPORATION

OF

**ZANDFONTEIN FARM HOMEOWNERS'
ASSOCIATION NPC**

Non-Profit Company

Registration Number 2000/027413/08

Registered with CIPRO on 30/10/2022

CONTENTS

1	DEFINITIONS AND INTERPRETATION	4
2	ADOPTION OF THIS MEMORANDUM OF INCORPORATION	5
3	INCORPORATION AND FORM OF MOI	5
4	COMPANY NAME	6
5	REGISTERED OFFICE	6
6	FINANCIAL YEAR	6
7	NATURE, LEGAL STATUS AND FRAMEWORK	6
8	BINDING NATURE OF MOI	7
9	MAIN BUSINESS AND OBJECTIVES	7
10	MEMBERSHIP OF THE ASSOCIATION	8
11	LEVIES	9
12	POWERS OF THE COMPANY	10
13	GOVERNING RULES	11
14	COMPOSITION OF THE BOARD	12
15	APPOINTMENT OF DIRECTORS	12
16	ROTATION OF DIRECTORS	13
17	DISQUALIFICATION AND REMOVAL OF DIRECTORS	13
18	CHAIRPERSON AND VICE-CHAIRPERSON	14
19	POWERS AND FUNCTIONS OF THE BOARD	14
20	ROLES AND PORTFOLIOS OF DIRECTORS	15
21	DIRECTORS' EXPENSES	15
22	PROCEEDINGS OF DIRECTORS	15
23	GENERAL MEETINGS OF THE ASSOCIATION	16
24	QUORUM FOR GENERAL MEETINGS	17
25	AGENDA AT ANNUAL GENERAL MEETINGS	17
26	PROCEEDINGS AT GENERAL MEETINGS	18
27	PROXIES	18
28	VOTING	18
29	Appointment of Public Officer	19
30	ACCOUNTING RECORDS	19
31	SERVICE OF NOTICES	20
32	INDEMNITY	20
33	DISCLAIMER	21

34	SECURITY SERVICES	21
35	MANAGING AGENT	22
36	WINDING UP	22
37	AMENDMENT OF THE MOI	22

1 DEFINITIONS AND INTERPRETATION

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

“the Association” means the Zandfontein Farm Homeowners’ Association or otherwise known by its abbreviation, ZFHOA

“the Auditors” means the Auditors of the Company appointed by the Board in Annual General Meeting, from time to time

“Board” means the total number of Directors duly appointed from time to time

“boomed-off suburb” means the tract of land on where the gated community is situated, consisting of freehold residential units, also known as the Rocklands community, comprising of 264 (two hundred & sixty-four) properties (Erven). The community is bordered by Kelvin Drive to the South, the ESKOM Kelvin Sub-Station, the Medical Park and the Country Club Johannesburg to the East, Ashby Estate and the Country Club Johannesburg to the North and Bowling Avenue to the West.

“CIPC” means the Companies and Intellectual Property Commission established in terms of section 85 of the Companies Act

“the Company” means the Zandfontein Homeowners Association NPC a non-profit company incorporated and existing under the laws of the Republic of South Africa which is referred to in the rest of this Memorandum of Incorporation and in general usage as the Company, the Association, or by the acronym ZFHOA

“communal areas” means all those areas that fall outside the confines of the residential erven and are classified as public space

“the Companies Act” means the Companies Act, No. 71 of 2008 as amended from time to time

“Director” means a member of the Board of the Company, from time to time

“gated community” means an enclosed neighbourhood that has controlled access using one or more gates that residents or visitors must pass through

“good standing” means a Member with all levies and other charges paid up to date, having fulfilled all its financial obligations towards the Association, is in compliance with the Code of Conduct for Members

“Income Tax Act” means the Income Tax Act, No. 58 of 1962 as amended

“Management Agent” means such person as may be appointed by the Company as an independent contractor to undertake any administrative and/or management function on behalf of the Company

“Member” means a member of the Association by virtue of such member being the owner of a residential erf in the boomed-off suburb

“MOI” means the Memorandum of Incorporation of the Association, as constituted by this document and any subsequent amendments thereof, together with its annexures, and unless the context clearly provides otherwise, should be read, and applied by including any relevant provisions in the rules and codes of conduct

“Municipality” means the City of Johannesburg Metropolitan Municipality being the local authority having jurisdiction over the boomed-off suburb.

“Public Officer” means such person as may from time to time be appointed by the Company to deal with such matters on behalf of the Company with regard to public regulation as defined in the Companies Act

“register” means the register of Members kept in accordance with the provisions of the Companies Act

“residential erf or erven” means property owned by a Member and for which a Title Deed registered with the Registrar of Deeds recording ownership of such immovable property to that Member, within the township

“the township” means the proclaimed township of Gallo Manor Extension 2 Township, situated in Sandton, Gauteng

“ZFHOA” means Zandfontein Farm Home-Owners Association, NPC

- 1.1. The headings are for reference purposes only and shall not affect the interpretation of this MOI.
- 1.2. Words that are defined in the Companies Act bear the same meaning in this MOI as in that Act.
- 1.3. When a particular number of days is provided for between the happening of one event and another, the number of days must be calculated by:
 - 1.3.1 excluding the day on which the first such event occurs
 - 1.3.2 including the day on or by which the second event is to occur; and
 - 1.3.3 excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in clauses 1.3.1 and 1.3.2 respectively.
- 1.4. Words importing any one gender shall include the other genders.
- 1.5. Where consent or approval is required for any act by a Member, such consent or approval shall be in writing and duly signed, shall not be unreasonably withheld, and shall be given prior to the member acting.
- 1.6. If a Member consists of more than one person, they shall be jointly and severally liable in solidum for all their obligations in terms of these memoranda.

2 ADOPTION OF THIS MEMORANDUM OF INCORPORATION

- 2.1. The Company resolved by a special resolution of Members passed on ___August 2022, to amend its existing Memorandum and Articles of Association by replacing those constitutional documents in their entirety with this Memorandum of Incorporation.
- 2.2. The Memorandum of Incorporation is signed by each Director of the Board of Directors of the Association as designated by the special resolution of Members to confirm the adoption of this MOI in accordance therewith.
- 2.3. This MOI takes effect on the date of filing hereof with CIPC.

3 INCORPORATION AND FORM OF MOI

- 3.1. This MOI is in a form unique to the Company, as contemplated in section 13 (1)(a)(ii) of the Companies Act and the standard MOI forms will not apply to the Company.
- 3.2. The Company is incorporated in accordance with and governed by:

- 3.2.1 the unalterable provisions of the Companies Act, subject to any higher standard, greater restriction, longer period of time or any similarly more onerous requirement imposed on the Association, in terms of this MOI, than would otherwise apply to the Company in terms of an unalterable provision of the Companies Act; and
- 3.2.2 the alterable provisions of the Companies Act, subject to the limitations, extensions, variations, or substitutions set out in this MOI.
- 3.3. If the provisions of this MOI are in any way inconsistent with the provisions of the Companies Act, the provisions of the Companies Act shall prevail, and this MOI shall be read and interpreted in all respects subject to the Companies Act.

4 COMPANY NAME

The name of the company is ZANDFONTEIN FARM HOMEOWNERS' ASSOCIATION NON-PROFIT COMPANY.

5 REGISTERED OFFICE

Street Address:

15 Canterbury Crescent
Gallo Manor Extension 1
Sandton
2196

Postal Address:

PO Box 561
Gallo Manor
2052

6 FINANCIAL YEAR

The financial year of the Company shall run from the 1st day of March in any year to the last day of February in the subsequent year.

7 NATURE, LEGAL STATUS AND FRAMEWORK

- 7.1. The Company is a pre-existing company and, as such, continues to exist as a company as if it had been incorporated and registered in terms of the Companies Act.
- 7.2. The Association is created as a legal entity independent of its members. This legal entity is constituted and serves as the governing body of the boomed-off suburb and is incorporated as a not-for-gain company with members.
- 7.3. The Company is legally structured as a non-profit company as defined in section 8(1) of the Companies Act read together with sections 10(1), 10(2) and Schedule 1:
 - 7.3.1 subject to the restrictions in section 10 and Schedule 1 of the Companies Act; and

- 7.3.2 for an object relating to a communal or group interest, as required by item 1(1)(a)(ii) of Schedule 1 to the Companies Act; and
 - 7.3.3 with voting members as contemplated in item 4(1) of Schedule 1 to the Companies Act, read with item 4(2)(d) thereof; and
 - 7.3.4 to apply all of its assets and income, however derived, to advance its stated objects, as set out in this MOI; and
 - 7.3.5 with a MOI consistent with the principles set out in items 1(2) to 1(9) of Schedule 1 to the Companies Act.
- 7.4. The Company does not have a share capital and cannot distribute shares or pay dividends.
 - 7.5. Except to the extent permitted by the Companies Act, the Company's income and property cannot be distributed to its members or directors. The profits of the Company are used only for the purpose of attaining the objectives of the organisation.
 - 7.6. The Association has approval from the Johannesburg Roads Agency for the security access restrictions to the boomed-off suburb in accordance with the conditions stipulated in the City of Johannesburg's Security Access Restriction Policy, 2018. The local authorities regulate the boomed-off suburb to ensure that it functions within the parameters of the Gauteng Local Rationalisation of Government Affairs Act 10 of 1998.
 - 7.7. The approval allows for access points which are controlled by closed-circuit television, manned boom gates, permanently closed gates, pedestrian gates, stop streets and security control points.
 - 7.8. The public space of the enclosed neighbourhood which includes parks, roads bridges, public transport areas or throughfare is for the use and benefit of the general public and is owned by and vests with the Municipality.
 - 7.9. Water, electricity, amenities, road maintenance and public space structures for the gated community are supplied by the local Municipality.
 - 7.10. All security control structures including boom gates, palisade fencing closed-circuit television and other equipment is the property of the Association.
 - 7.11. It is important to note that in these memoranda that, as is the case with privately owned security estates, no legal restrictions are placed on Members' title deeds. There are no standards of construction and landscaping that Members are obliged to conform to.
 - 7.12. The Association respects and shall not interfere with the Members' lawful and undisturbed use of their property.
 - 7.13. The operation of security access restriction points shall not have the effect of denying or hindering public access to public spaces, including roads, nor should they require certain categories of persons to furnish personal information.

8 BINDING NATURE OF MOI

This MOI (and any association rules) are binding:

- 8.1. between the Association and each Member and, as far as they may be applicable to all persons occupying any residential erf by, through or under any Member, whatever the nature of such occupation
- 8.2. between or among the Members of the Association

- 8.3. between the Association and each Director of the Company; and
- 8.4. between the Association and any other individual serving the Association as a member of a committee of the Board,
in the exercise of their respective rights, obligations, and functions within the Association.

9 MAIN BUSINESS AND OBJECTIVES

9.1 The Association is established to:

- 9.1.1 Promote, protect, and manage the collective interests of the Members generally and to co-operate with the Municipality and all other local authorities for the benefit of the Association and its Members.
- 9.1.2 Represent the interests of Members and to provide a united voice by which such interests may be expressed.
- 9.1.3 Advance the communal interests of the Members and living standards inside the boundaries of the boomed-off suburb.
- 9.1.4 Procure and maintain acceptable security and ancillary services within the boomed-off neighbourhood.
- 9.1.5 To maintain the entrances of the boomed-off suburb, including booms and security control equipment, the perimeter fence around Rocklands and communal areas.
- 9.1.6 Collect levies and other contributions from Members for the attainment of the objectives of the Association and to defray the necessary operational expenses, subject to the conditions imposed under the laws and by-laws.
- 9.1.7 Enforce adherence to the Board Charter, Members' Code of Conduct and rules.
- 9.1.8 Do all such other lawful things as are incidental or conducive to the attainment of the above objectives.

9.2. In pursuance of its objectives:

- 9.2.1 the income and property of the Company from wherever derived, shall be applied solely towards the promotion of its main objectives and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever, to the Members of the Company. Provided that nothing herein contained shall prevent the payment in good faith to any officer or servant of the Company or to any Member thereof in return for any services rendered to the Company.
- 9.2.2 the Company shall be entitled to bind its Members to contribute by way of levies towards the funds of the Company and to enforce payment of and to collect and receive from Members such levies,
- 9.2.3 the Company shall be entitled to enforce compliance with its MOI in such manner as it may deem fit and in particular by means of a system of fines or such other penalties as it may see fit to prescribe,
- 9.2.4 and its powers shall extend to achieving this object directly and indirectly by taking all reasonable and lawful steps to accomplish this object and purpose.

10 MEMBERSHIP OF THE ASSOCIATION

- 10.1. Membership of the Association shall be limited to those natural or juristic persons who are in terms of the Deeds Registries Act reflected in the records of the office of the Registrar of Deeds as the registered owner of a residential erf in the boomed-off neighbourhood.
- 10.2. Where two or more persons own a property, the co-owners are seen collectively as one Member, and have the rights and obligations to the Association of one Member. Similarly, where a legal entity defined as a member has one or more representatives, the representatives are seen collectively as one Member.
- 10.3. When any person including a juristic person becomes the registered owner of a residential erf, he shall ipso facto become a Member of the Association, and when he ceases to be the owner of any residential erf in the township, he shall ipso facto cease to be a Member of the Association.
- 10.4. The rights and obligations of a Member shall not be transferable, and every Member shall:
 - 10.4.1 further, to the best of his ability, the objects, and interests of the Company
 - 10.4.2 observe the Codes of Conduct and all rules made by the Directors
- 10.5. The Company shall keep a register of Members at the place and in the manner specified in the Companies Act.
- 10.6. Only Members considered in good standing are entitled to vote at any meeting of the Association and can be eligible for election as Director.

11 LEVIES

- 11.1. Before every Annual General Meeting, 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 Annual General Meeting for consideration. The estimate of expenses shall include reasonable provision for contingencies.
- 11.2. The Directors may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual nature. The budget shall further specify the estimates deficit, if any, carried forward from the preceding year.
- 11.3. The budget shall, in the discretion of the Directors, either be delivered to Members, alternatively copies shall be available for collection at the offices of the Management (and be accessible on the Association's website) not later than 15 (FIFTEEN) days prior to the date of the Annual General Meeting.
- 11.4. The Directors shall advise the Members, in writing, as soon as practically possible after the Annual General Meeting, of the amount of the levies that is payable by each Member for the financial year ahead. The Directors shall in their sole discretion be entitled and obliged to apportion the costs which make up the levy into different service categories.
- 11.5. The budget shall be presented at the Annual General Meeting for approval by the Members, in the form as presented or with amendments or modifications as the Members decide.
- 11.6. The Directors shall in their administration and management of the Association, not exceed the approved budget, and not increase the levies or impose additional levies

(with respect to any unforeseen and/or extraordinary expenditure, special projects or otherwise) unless a due motivation accompanied by a feasibility study has been made available to Members.

- 11.7. Every levy shall be payable in equal monthly instalments, due in advance on the first day of each and every month of each financial year.
- 11.8. In the event of the Directors for any reason whatsoever failing to prepare and serve the estimate referred to in article 11.1 above timeously, every member shall until service of such estimate as aforesaid continue to pay the levy previously imposed and shall after such service pay such levy as may be specified in the notice referred to in article 11.1.
- 11.9. The Directors shall be empowered in addition to such other rights as the Association may have in law as against its Members to determine the rate of interest from time to time chargeable upon arrear levies, provided that such rate of interest shall not exceed the rate laid down in terms of the National Credit Act, as amended.
- 11.10. Any amount due by a Member by way of levy, penalties and interest shall be a debt due by him to the Association.
- 11.11. A Member shall be liable for and pay all legal costs, including costs as between an attorney and his own client, collection commission, and all other expenses and charges incurred by the Company in obtaining the recovery of arrear levies or any other arrear amounts due and owing by such Member to the Company.
- 11.12. A Member who is more than 30 (THIRTY) days in arrears with any levy payment or other sum due to the Company will not be considered in good standing and not be entitled to vote at meetings of the Company.
- 11.13. The obligation of a Member to pay a levy and interest shall cease upon his ceasing to be a Member without prejudice to the Association's right to recover arrear levies and interest.
- 11.14. No levies or interest paid by a Member shall under any circumstances be repayable by the Association upon his ceasing to be a member.

12 POWERS OF THE COMPANY

- 12.1. The Company has all the legal powers and capacity of a natural person and accordingly the Company may do anything which the Companies Act empowers a company to do unless prohibited by its MOI and provided that the Company in the exercise of its powers must restrict itself to the objectives set out in this MOI.
- 12.2. The Company must not, directly, or indirectly, pay any portion of its income or transfer any of its assets, regardless of how the income or asset was derived, to any person except:
 - 12.2.1 as reasonable remuneration for goods delivered or services rendered
 - 12.2.2 as reasonable payment of, or reimbursement for, expenses incurred to advance a stated object of the Association
 - 12.2.3 as a payment of an amount due and payable by the Association in terms of a bona fide agreement between the Association and the other party
 - 12.2.4 in respect of any legal obligation binding on the Company

- 12.3. The Company must not allow any of its income or assets to be applied for a purpose which does not promote the achievement of the stated objects of the Association as set out in this MOI.
- 12.4. All the property and income of the Company, whether obtained by donations or profit by means of income-generating activities and levies, must be used to further its objectives.
- 12.5. No part of the Company's income may be paid to a Member or Director unless:
 - 12.5.1 The payment is reasonable remuneration for goods delivered and or services rendered, and such payment has been disclosed to the Members
 - 12.5.2 The payment constitutes reasonable reimbursements for expenses incurred in the course of a director's duties in furthering the object and purpose of the Association which reimbursement has been approved by the Board.

13 GOVERNING RULES

- 13.1. To promote and implement the main business and main object of the Association the Board may from time to time make necessary and incidental rules, a Board Charter and codes of conduct relating to the governance of the Association.
- 13.2. The Directors shall formulate and enforce rules and codes of conduct in respect of matters that are not addressed in the Companies Act or this MOI, or for instances specifically provided for in the MOI.
- 13.3. The rules must support any one or all of the principles of proper governance, such as but not limited to, accountability, fairness, and transparency.
- 13.4. The Board may make rules in respect of, but strictly not limited to, the following matters:
 - 13.4.1 Rules which relate to the Board and individual members of the Board.
 - 13.4.2 Rules which relate to the efficient running and management of the affairs of the Association, or any particular individual member of the management.
 - 13.4.3 Rules which relate to the financial strategy and policies of the Association.
 - 13.4.4 Rules which relate to conflict-of-interest declarations and the role and authority of chairpersons.
 - 13.4.5 Rules which relate to the methods and style of communication with and between members and the Board.
 - 13.4.6 Rules which relate to the preservation of harmony, orderly and respectful conduct, and the processes to be followed in cases of misconduct.
 - 13.4.7 Rules which relate to the conduct of any persons within the township for the prevention of nuisance or damage to persons or property the control and recycling of refuse and littering.
 - 13.4.8 Rules which relate to the preservation of the natural environment, vegetation, and fauna of the township.
 - 13.4.9 Rules which relate to the use of the entrances, security infrastructure and related services to the boomed-off suburb.
 - 13.4.10 Rules which relate to the provision of safeguards to prevent crime and vandalism in the township including such rules as may be required to control egress and ingress to the township.

- 13.4.11 Rules for the furtherance and promotion of the objectives of the Association, for maintaining good neighbourly relations and for the advancement of the interests of the Members.
- 13.4.12 The Directors shall be responsible for the enforcement of all rules and codes of conduct in accordance with a disciplinary code.
- 13.5. The rules and codes of conduct shall be reasonable, apply equally and binding on the Members and Directors.
- 13.6. For purposes of the enforcement of any of the rules and codes of conduct made by the directors in terms hereof, the directors may take or cause to be taken such steps as they may consider necessary to remedy breaches and violations.
- 13.7. Notwithstanding anything contained herein to the contrary, the directors may in the name of the Company enforce the provisions of the rules and codes of conduct in any Court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.
- 13.8. In the event of any breach of the rules by a Member's tenants, or his guests, such breach shall be deemed to have been committed by the Member himself, but without prejudice to the foregoing, the directors may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit.
- 13.9. In the event of any Member disputing the fact that he has committed a breach of any of the rules or codes of conduct, a committee of three directors appointed by the Chairperson for that purpose, shall adjudicate upon the issue at such time and in such manner and according to such procedure as the Chairperson may direct.
- 13.10. The following codes of conduct, made by the Board of Directors and amended from time to time, form an integral part of this MOI and are binding on all members:
- 13.10.1 Conduct Rules Directors as set out in **Annexure A** to this MOI
- 13.10.2 Conduct Rules Members as set out in **Annexure B** to this MOI

14 COMPOSITION OF THE BOARD

- 14.1. There shall be a Board of Directors of the Company, which shall consist of at least 5 (FIVE) and a maximum of 9 (NINE) persons as voted in by the Members at an annual general meeting of the Company.
- 14.2. A Director shall be a natural person and must himself be a Member in good standing of the Association.
- 14.3. The Company shall not have any alternate directors.
- 14.4. No person shall be elected as a Director if he is ineligible or disqualified and any such election shall be a null and void.
- 14.5. A Director may not appoint another person to function in his stead or to fulfil his functions.
- 14.6. A Director who has personal interest of conflict of interest regarding any matter before the Board shall be obliged to disclose such personal interest or conflict. Once the director has disclosed a conflict of interest, the director must recuse himself from the meeting when that matter is to be considered and may not take part in the discussions.
- 14.7. A Director, by accepting his appointment to office, shall be deemed to have agreed to be bound by all the provisions of this MOI.

15 APPOINTMENT OF DIRECTORS

15.1. Directors shall be appointed in terms of the following process:

- 15.1.1 All of the Directors will be nominated by Members and there will be no ex officio director positions.
- 15.1.2 Nominations shall be submitted to the Board, in writing, by no later than the commencement of the General Meeting at which such nomination is to be considered.
- 15.1.3 The person shall sign written notification so nominated to indicate acceptance of the nomination, prior to the submission thereof to the office of the Company.
- 15.1.4 The Chairperson may request and receive nominations from the floor of the General Meeting at which nominations are to be considered and any such person nominated shall be present at such meeting and shall accept such nomination, failing which such nomination shall be void ab initio.
- 15.1.5 The Chairperson of the meeting shall call for the votes of such Directors, on the terms and conditions of voting rights as set out in this Memorandum, after allowing each candidate for the election to address the meeting for a period of not exceeding 3 (THREE) minutes per nominee.

16 ROTATION OF DIRECTORS

- 16.1. Each Director shall continue to hold office from the date of his appointment until the next Annual General Meeting following his appointment, at which meeting each Director shall be deemed to have retired from office but will be eligible for re-election to the Board of Directors as such meeting, subject at all times to the provisions of the Companies Act.
- 16.2. A Director shall vacate his office upon his having become disqualified to function as a Director in terms of the provisions of the Companies Act.

17 DISQUALIFICATION AND REMOVAL OF DIRECTORS

17.1. A director shall cease to hold office as such if –

- 17.1.1 he ceases to be a director by virtue of the provisions of the Companies Act or becomes prohibited from being a director by reason of any order made under the laws of South Africa; or
- 17.1.2 his estate is sequestrated, or he files a petition for the surrender of his estate or an application for an administration order, he is placed under curatorship by any court of competent jurisdiction, or if he commits an act of insolvency, or if he makes any arrangement or composition with his creditors generally; or
- 17.1.3 he is declared mentally unfit; or
- 17.1.4 he is convicted of an offence involving dishonesty or other misconduct; or
- 17.1.5 he is removed by a resolution of the Company as provided for in the Companies Act and he has been given a reasonable opportunity to make a presentation as contemplated by the Companies Act
- 17.1.6 he resigns his office by notice in writing to the Company; or
- 17.1.7 his appointment is revoked in writing by the Members who appointed him; or

- 17.1.8 he is removed from office in accordance with any provisions of this MOI; or
 - 17.1.9 he absents himself from meetings of Directors for 3 (THREE) consecutive meetings without the leave of the other Directors; or
 - 17.1.10 he is no longer committed to furthering the objects of the Company; or
 - 17.1.11 he brings the Company in disrepute; or
 - 17.1.12 he passes away.
- 17.2. Upon any vacancy in number of voted in Directors occurring in the Board of Directors prior to the next Annual General Meeting, the vacancy in question shall be filled by a Member nominated and voted in by a majority of the remaining Directors at a properly called meeting of the Board of Directors.

18 CHAIRPERSON AND VICE-CHAIRPERSON

- 18.1. The Directors shall within 14 (FOURTEEN) days after each Annual General Meeting appoint from their number a Chairperson and Vice-Chairperson, who shall hold office until the next Annual General Meeting after the said appointments, provided that the office of the Chairperson and Vice-Chairperson shall be ipso facto vacated by a Director holding office as such upon him ceasing to be a Director for any reason. Should either the Chairperson or the Vice-Chairperson cease to be a director then their respective office will be vacated simultaneously with them no longer being a director.
- 18.2. No one Director shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in either of the aforesaid offices at any time the Board of Directors shall immediately appoint one of their number as a replacement in such office.
- 18.3. Except as otherwise herein provided, the Chairperson shall preside at all meetings of the Board of Directors and all general meetings and, in the event of his not being present within 10 (TEN) minutes of the scheduled time for the start of the meeting or in the event of his inability or unwillingness to act, the Vice-Chairperson shall act in his stead, or failing the Vice-Chairperson, a chairperson appointed by the meeting.
- 18.4. The roles of chairperson, vice-chairperson and treasurer shall at all times be held by separate individuals.

19 POWERS AND FUNCTIONS OF THE BOARD

- 19.1. The authority of the Board to manage and direct the business and affairs of the Association, as provided for in the Companies Act, is not limited or restricted otherwise than as provided for in this MOI. As such the management and control of the affairs of the Association shall vest in the Board, which shall have full power and authority to do or perform any act, function, matter, or thing which could or might be done by the Association.
- 19.2. The Board may from time to time make special levies upon the Members in respect of all such expenses which were not included in any estimate made in terms of article 11 and may in imposing such levies further determine the terms of payment thereof.
- 19.3. The Board shall manage and control the business and affairs of the Association, shall have full powers in the management and direction of such business and affairs including the right of appointment and termination of service providers.

- 19.4. The Board shall at all times have the right to engage on behalf of the Association the services of accountants, auditors, attorneys, advocates, architects, engineers, and any other professional firm or person for any reasons deemed necessary by the Board and on such terms as the Directors shall decide.
- 19.5. The Board shall have the right to co-opt onto the Board any person or persons chosen by it. A co-opted Director need not necessarily be a Member of the Association.
- 19.6. The Board shall be entitled to appoint committees consisting of such number of their members and such outsiders, including a 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, with further power to vary or revoke such appointments and delegations as the Board may from time to time deem necessary.
- 19.7. The Board shall be entitled to take action including the imposition of fines, or the institution of legal proceedings in any court of law, as may be deemed fit by the Directors, in relation to the non-compliance by any Member of any of the requirements of this Memorandum or any other rule applicable to the Association.

20 ROLES AND PORTFOLIOS OF DIRECTORS

- 20.1. The Directors shall amongst themselves bring about certain portfolios to deal with the running of the Association. Following the Annual General Meeting, at the first monthly meeting of the Board, the newly appointed Directors shall volunteer for the Board roles of chairperson, vice-chairperson, treasurer, secretary, and director of security. The Directors may elect so many portfolios as they in their absolute discretion deem appropriate subject to the proviso that the following portfolios must exist:
 - 20.1.1 Treasury
 - 20.1.2 Secretarial
 - 20.1.3 Security
- 20.2. The overarching duties of the Directors in their various roles and portfolios shall include the following:
 - 20.2.1 Provide leadership in establishing strategy and direction for the Company
 - 20.2.2 Ensure that the Company's decisions are implemented
 - 20.2.3 Ensure that the Company as a whole function well
- 20.3. The detailed responsibilities commensurate with the roles and portfolios are set out in **Annexure C** to this MOI. [Document labelled: Rocklands Community Leadership | Role Descriptions Printed on Wednesday, May 27, 2020]

21 DIRECTORS' EXPENSES

The Directors shall be entitled to be repaid all reasonable and bona fide expenses incurred by them in the performance of their duties as Directors. Save as aforesaid, Directors shall not be entitled to any remuneration for the performance of their duties in terms hereof.

22 PROCEEDINGS OF DIRECTORS

- 22.1. The Directors may meet to deal with their business, adjourn and otherwise regulate their meetings as they think fit, subject to the provisions of this MOI.
- 22.2. The quorum for the holding of any meeting of the Directors shall be 5 (FIVE) present in person.
- 22.3. Any resolution passed by the Board of Directors shall be carried on a simple majority of all votes cast. Should there be an equality of votes for and against any resolution; the resolution shall be deemed to have been defeated.
- 22.4. The Directors shall cause minutes to be kept of every Directors' meeting, which minutes shall, without undue delay after the meeting has closed, be reduced to writing and certified correct by the Chairperson.
- 22.5. All minutes of Directors' meetings shall, after certification, be placed in a minute book to be kept in accordance with the provisions of the law relating to the keeping of minutes of meetings of directors of companies.
- 22.6. The Directors' minute book shall be open for inspection at all reasonable times by any Director, the Auditors, the Members, and any Managing Agent.
- 22.7. All votes taken at a directors' meeting must be recorded, if there exists a majority, on number of votes cast for and against any proposed resolution.
- 22.8. Subject to the provisions of this MOI, the proceedings of any Directors meeting shall be conducted in such reasonable manner and form as the Chairperson of the meeting shall direct.
- 22.9. A round robin resolution signed by all the Directors shall be valid in all respects as if it had been duly passed at a meeting of the Board of Directors.

23 GENERAL MEETINGS OF THE ASSOCIATION

- 23.1. The Association shall within 6 (SIX) months after the end of each financial year hold a General Meeting as its Annual General. General Meetings shall be scheduled in addition to any other General Meetings during that year and shall specify the meeting as such in the notices in terms of this MOI calling it.
- 23.2. Such Annual General Meeting shall be held at such time and place as the Directors shall decide from time to time. This includes the option to hold face-to-face meetings, or virtual meetings, or a combination thereof.
- 23.3. All General Meetings other than Annual General Meetings shall be called extraordinary general meetings.
- 23.4. The Directors may, whenever they think fit, convene an extraordinary general meeting, and an extraordinary general meeting shall also be convened on a requisition made in terms of the Companies Act, or in default, may be convened by the requisitions as provided by and subject to the provisions of the Companies Act.
- 23.5. An Annual General Meeting and a meeting called for the passing of a special resolution, shall be called by 21 (TWENTY-ONE) clear days' notice in writing at least, and an extraordinary general meeting, other than one called for the passing of a special resolution, shall be called for by 14 (FOURTEEN) clear days' notice in writing at the least.

- 23.6. In each case the notice shall be exclusive of the day on which it is given, and shall specify the place, the day and the hour of the meeting, and in the case of special business, in addition to any other requirements contained in these presents, the general nature of that business, and in the case of a special resolution, the terms and effect of the resolution and the reasons for it shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Directors to such persons as are under these presents entitled to receive such notices from the Association; provided that a general meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified in these presents be deemed to have been duly called if it is so agreed:
- 23.6.1 in the case of a meeting called as the Annual General Meeting by all the Members entitled to attend and vote thereat; and
- 23.6.2 in the case of an extraordinary general meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than 95% (NINETY-FIVE PER CENT) of the total voting rights of all Members.
- 23.7. As far as special notice may be required of a resolution, whether by any provision of the Companies Act or these presents, then the provisions of the Companies Act shall apply.
- 23.8. The Association shall at all times comply with the provisions of the Companies Act as to giving of notice and circulating statements on the requisition of Members.
- 23.9. The accidental omission to give notice of a meeting or of any resolution, or to give any other notification, or present any document required to be given or sent in terms of these presents, or in terms of the Companies Act, or the nonreceipt of any such notice, notification or document by any Member or other person entitled to receive the same, shall not invalidate the proceedings at, or any resolution passed at, any meeting.

24 QUORUM FOR GENERAL MEETINGS

- 24.1. No business shall be transacted at any General Meeting unless a quorum is present when the meeting proceeds to business. The quorum necessary for the holding of any General Meeting shall be such of the Members entitled to vote as together for the time being represent the votes of 25% (TWENTY FIVE PERCENT) in number of all Members entitled to vote for the time being, provided that a quorum shall never be less than 5 (FIVE) Members present in person.
- 24.2. If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time or at such other place as the Chairperson of the meeting shall appoint, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Members present shall be a quorum.

25 AGENDA AT ANNUAL GENERAL MEETINGS

- 25.1. In addition to any other matters required by the Companies Act or these presents to be dealt with at an Annual General Meeting, the following matters shall be dealt with at every Annual General Meeting:
- 25.1.1 The consideration of the Chairperson's report

- 25.1.2 The election of Directors
- 25.1.3 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
- 25.1.4 The consideration of the financial accounts of the Association for the preceding financial year
- 25.1.5 The consideration of the report of the Auditors and the fixing of remuneration for the Auditors.

26 PROCEEDINGS AT GENERAL MEETINGS

A general meeting may not begin until at least 5 (FIVE) Members in good standing and, who are eligible to vote, are present at the meeting and any matter to be decided at the meeting may not begin to be considered and decided unless at least 5 (FIVE) Members, who are in good standing and eligible to vote, are present at the meeting at the time the matter is called on the agenda.

27 PROXIES

- 27.1. A Member may be represented at a general meeting by a proxy, who need not be a Member of the Association. The instrument appointing a proxy shall be in writing signed by the Member concerned or his agent, duly authorised in writing, but need not be in a particular form provided that, where a Member is more than 1(ONE) person, a majority of those persons shall sign the instrument appointing a proxy on such Member's behalf.
- 27.2. The instrument appointing a proxy and the power of attorney or any other authority under which it is signed shall be tabled at the meeting at which the person named in the instrument proposes to vote. No instrument appointing a proxy shall be valid after the expiration of 12 (TWELVE) months from the date of its execution.
- 27.3. A vote given in accordance with the terms of a proxy shall be valid notwithstanding the prior death of the principal or revocation of the proxy, provided that no intimation in writing of the death or revocation shall have been received by the Directors at any time before a vote is taken in respect of which the proxy exercises such vote.

28 VOTING

- 28.1. At every general meeting:
 - 28.1.1 Every Member, in person or by proxy in good standing and entitled to vote shall have 1 (ONE) vote for each residential erf registered in his name.
 - 28.1.2 If a residential erf is registered in the name of more than one person, then all such co-owners shall jointly have 1 (ONE) vote.
 - 28.1.3 In the event of a residential erf being owned by a close corporation, company or trust, such entity shall nominate one natural person to be a member of the Association, which person shall have 1 (ONE) vote.
 - 28.1.4 Where there are voting members, each voting member has at least 1 (ONE) vote and, the votes of voting members carry equal weight on any matter unless the MOI provides otherwise.

- 28.1.5 Any Member holding undeveloped land in the township shall have 1 (ONE) vote for each separate piece of land registered in his name.
- 28.2. Save as expressly provided for in these presents, no person other than a Member duly registered and who shall have paid every levy and other sum, if any, which shall be due and payable to the Association in respect of or arising out of his membership and who is not under suspension, shall be entitled to be present or to vote on a question, either personally or by proxy, at any general meeting.
- 28.3. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairperson or members as contemplated by the Companies Act, and, unless a poll is so demanded, a declaration by the Chairperson that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or negatived, and an entry to that effect in the book containing the minutes of the proceedings of the Association, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.
- 28.4. If a poll is duly demanded it shall be taken in such manner as the Chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded scrutineers shall be elected to determine the result of the poll. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
- 28.5. A poll demanded on the election of a Chairperson or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairperson of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 28.6. 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.
- 28.7. An ordinary resolution (that is a resolution other than a special resolution) or the amendment of an ordinary resolution shall be carried on a simple majority of all votes cast. In the case of equality of votes for and against any resolution, the Chairperson at such meeting shall be entitled to a second or casting vote.
- 28.8. Unless any Member present in person or by proxy at a general meeting shall, before the closure of the meeting, have objected to any declaration made by the Chairperson of the meeting as to the result of any voting at the meeting, whether by show of hands or otherwise, or to the propriety or validity of the procedure at such meeting, such declaration by the Chairperson shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted and an entry in the minutes to the effect that any motion has been carried or lost, with or without a record of the number of votes recorded in favour of or against such motion, shall be conclusive evidence of the votes so recorded.

29 Appointment of Public Officer

The Board of Directors shall from such Board appoint one Director alternatively a member of the Association to serve as the Public Officer of the Company who shall deal with public regulation as defined by the Companies Act.

30 ACCOUNTING RECORDS

- 30.1. The Directors shall keep accounting records as are necessary to present the state of affairs and business of the Company and to explain the transactions and financial position of the Company.
- 30.2. The Company's accounting records shall be kept as such place as the directors think fit and shall at all reasonable times be open to inspection by the Directors and by past directors but, in the case of the latter only in respect of the period during which they held office as directors.
- 30.3. No member, if he is not a director, shall have any right to inspect any accounting records or document of the Company except to what extent and under what conditions as determined by the Directors.
- 30.4. The Auditors shall be required to complete the annual audit of the Company within 6 (SIX) months of the financial year-end of the Company and shall otherwise be entitled to perform such interim audits and/or examine the accounts of the Company as directed by the Board of Directors.
- 30.5. The appointment and duties of the Auditors shall be in conformity with the Companies Act, the appointment and remuneration of the Auditors to be made and confirmed at each Annual General Meeting.
- 30.6. The Board of the Company must ensure that provisions of the income Tax are complied with, which specifically includes the provisions of section 30 of that Income Tax Act. To maintain its approval from the Commissioner of the South African Revenue Services, for the enjoyment of preferential tax treatment, the Board must ensure that at all relevant times the Company meet the criteria to retain its qualification as a Non-Profit Organisation as defined in the Non-profit Organisations Act 71 of 1997 and the Companies Act and continues to comply with the relevant prescribed requirements and conditions set out in the Income Tax Act.
- 30.7. The Company must:
 - 30.7.1 Be a non-profit company as defined in the Companies Act, No 71 of 2008
 - 30.7.2 Be an entity which sole or principal object is to carry on one or more public benefit activities, as defined in Part I of the Ninth Schedule to the Income Tax Act or by the Minister of Finance by notice in the Government Gazette; and
 - 30.7.3 Conducts its activities in a non-profit manner or with an altruistic and philanthropic intent, which activities are not intended to promote the economic self-interest of any employee or fiduciary of the taxpayer.

31 SERVICE OF NOTICES

- 31.1. A notice may be served by the Association upon any Member at the address of any residential erf owned by him unless the Member shall have notified the Association of another address for service of notices.

31.2. Any notice served by post shall be deemed to have been served on the day but one following that on which the letter containing the same was posted.

32 INDEMNITY

32.1. Every Director of the Association shall be indemnified by the Association against all costs, losses, and expenses which such person or persons may incur or become liable for by reason of any contract entered into or any act or deed done by such person or persons in the discharge of their respective duties, including in the case of a Director, his duties as Chairperson or Vice Chairperson.

32.2. Without prejudice to the generality of the foregoing, the Association shall specifically indemnify every such person against all losses of whatsoever nature incurred arising out of any bona fide act, deed or letter done or written by him jointly or severally in connection with the discharge of his duties.

32.3. The provisions as set out in article 32.1 shall similarly apply as far as every co-opted Director and member of any committee appointed by the Directors are concerned and the Association indemnifies all such persons accordingly.

32.4. The Directors shall be entitled in terms of the Rules to require each person (other than the Member and his family who form part of the household) as a precondition of entering the township complete and sign a Written indemnity in which the Association (and management) and their respective officers, employees and agents are indemnified and held harmless in respect of any claims, damages, or losses including any personal injury or other harm incurring or arising in and about the township.

32.5. The Directors shall be entitled to implement such procedures and measures and effect such insurances pertaining to all risks, whether insurable or otherwise and shall procure that the Association is covered by such short-term insurance including but not limited to public liability cover) as is determined from time to time.

33 DISCLAIMER

33.1. The Company shall accept no liability whatsoever for injury or loss or damage of any nature or description whatsoever, which the owner or occupier of a residential erf or any member of his family or his staff, or his friends, acquaintances, visitors or guests may sustain, physically or to his or their property, directly or indirectly, in or about the common property or on the residential erven by reason of any defect in the communal areas and its amenities or for any act done or any neglect on the part of the Association, its Directors, employees, agents or contractors.

33.2. The Association shall not be liable or responsible in any manner whatsoever for the receipt or non-receipt and the delivery or non-delivery of goods, postal matter, or any other property.

34 SECURITY SERVICES

34.1. To ensure the effective provision of a security service for Members in the township, all Members shall be obliged:

34.1.1 To permit the installation of any equipment in the residential erven for the purpose of such services as may be determined by the Association from time to time.

- 34.1.2 To make payment of the charges raised by the Association in respect of such services.
- 34.1.3 To abide by such terms and conditions of the provisions of such services as may be laid down by the Association from time to time.
- 34.2. Where the boundary of any Member's property also constitutes the boundary of the township, such Member shall be obliged to permit the Association to erect upon such Member's property immediately adjacent to such boundary, such walling or other fencing as the Association may determine.
- 34.3. Such Member shall not be entitled to interfere in any manner whatsoever with any such walling or fencing and shall subject to reasonable notice to such Member permit the Association access to such Member's property in order to inspect such walling or fencing and to effect such repairs as may be necessary from time to time.
- 34.4. In the event of any such Member wishing to erect his own walling or fencing, he shall be obliged to erect same within the walling or fencing referred to above and subject to such conditions as the Association may lay down to permit the Association access to the boundary walling or fencing concerned.

35 MANAGING AGENT

- 35.1. The Board of Directors shall, in addition to the powers contained herein, have the power from time to time, if deemed necessary, to appoint in terms of a written contract, a Managing Agent to control, manage and administer the boomed-off suburb and to exercise such powers and duties as may be entrusted to the Managing Agent, including the power to collect levies, provided that a Managing Agent shall be appointed for a year at a time, and unless the Board of Directors notify the Managing Agent to the contrary, such appointment will be automatically renewed from year to year.
- 35.2. The Board of Directors shall ensure that there is included in the contract of appointment of a Managing Agent a provision to the effect that if the Managing Agent 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 Board of Directors may, without notice, cancel such contract of employment and the Managing Agent shall have no claim whatsoever against the Board of Directors and/or the Company as a result of such cancellation.

36 WINDING UP

- 36.1. Upon dissolution of the Company its net assets must be distributed in the manner determined in accordance with Item 1(4) (b) of Schedule 2 of the Companies Act which holds that: -
 - 36.1.1 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
 - 36.1.2 as determined by majority resolution of the Members, immediately before the time of dissolution or, failing such determination by the Court.

37 AMENDMENT OF THE MOI

- 37.1. To fulfil the requirements for exemption from income tax on levies payable to, or accruing to, the Association, any amendment to this MOI and must be submitted to the Commissioner of the South African Revenue Services.
- 37.2. The Board is, by ordinary resolution –
- 37.2.1 empowered to correct errors substantiated as such from objective evidence or
 - 37.2.2 which are self-evident errors (including, but without limitation,
 - 37.2.3 spelling, punctuation, reference, grammar, or similar defects) in the MOI, and
 - 37.2.4 amend this MOI in compliance with a court order and shall publish a copy of any such correction effected by the Board on the Association's website.
- 37.3. This MOI may be amended at any time if a special resolution to amend it:
- 37.3.1 is proposed by the Board
 - 37.3.2 or Members entitled to exercise at least 10% (TEN PERCENT) of the voting rights that may be exercised on such a resolution; and
 - 37.3.3 is adopted at a Member's Meeting.
- 37.4. Within 10 (TEN) days after an amendment to the MOI has been effected as the Association must file with CIPRO a Notice of Amendment in the form required by the Companies Act together with the prescribed fee.