

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

**MEMORANDUM OF INCORPORATION**

[NON-PROFIT COMPANY – WITH MEMBERS]

of

**KRANSPOORT EIENAARSKOMITEE  
NPC**

REGISTRATION NUMBER 2004/023323/08

**I N D E X**  
**KRANSPOORT EIENAARSKOMITEE NPC**

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## **1. FORMAT OF MEMORANDUM**

- 1.1 The prescribed form of a Memorandum of Incorporation for a Non-Profit Company with members as provided for in section 13(1)(a)(i) of the Act and the Companies Regulations, 2011, will not apply to the Company.
- 1.2 This Memorandum is in a form unique to the Company, as contemplated in section 13(1)(a)(ii) of the Act.

## **2. POWERS AND CAPACITY OF THE COMPANY**

- 2.1 The Company is a juristic person as contemplated in terms of section 19 of the Act, which exists continuously until its name is removed from the companies register in accordance with the Act.
- 2.2 This Memorandum does not restrict the legal powers or capacity of the Company provided for in section 19(1)(b) of the Act, and accordingly, has all of the powers and capacity of an individual, except to the extent that a juristic person is incapable of exercising any such power, or having any such capacity.

### 3. DEFINITIONS

3.1 In this document, unless the context clearly otherwise indicates, the following words and phrases shall have the meanings assigned to them below:

Clause Number	Word/Phrase	Meaning
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3.1.1	Act	means the Companies Act No. 71 of 2008 (as amended).
3.1.2	Board	means the Board of Directors at the time being of the Company.

3.1.3	Chairman	means the Chairman or the Deputy Chairman of the Board.
3.1.4	Clause	shall be a reference to a numbered clause in this Memorandum of Incorporation.

3.1.5	Communal Areas	<p>includes, but is not limited to, public and private streets, open spaces, servitudes, entrance gates, areas for general community use and recreational amenities in the Kranspoort Scheme Township, which belongs to the Company or over which The Company has control and the Company and/or Members have a general right of access to or utilisation of (but do not constitute exclusive private property of any individual Member or Members), which, without limiting the generality of the aforesaid, shall also include picnic and recreational areas, sporting facilities, gardens and walkways, motor vehicle tracks and parking areas, game keeping camps and game viewing areas (inclusive of infrastructure and improvements erected or established on, over or under such areas (but excluding infrastructure of which ESKOM or another service provider is</p>
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		the owner), as well as the area designated as and generally referred to as the "game farm" comprising Portion 36 (a portion of portion 6) of the farm Rietvallei No 78, Registration Division JS, Mpumalanga.
3.1.6	Company	means Kranspoort Eienaarskomitee NPC, (Registration Number 2004/023323/08).
3.1.7	Directors	means the Directors for the time being of the Company.
3.1.8	General Meeting	means an Annual General Meeting or a Special General Meeting of the Company.
3.1.9	in writing <i>or</i> written	includes typewriting, printing, lithography and includes any communication in electronic form transmitted by using any medium.
3.1.10	Kranspoort Scheme Township	Shall mean the area over which the Company has jurisdiction to regulate its affairs and that of its Members in

		<p>terms of this Memorandum, which area comprises of the following Properties:</p> <p>i) The entire township known as Kranspoort Holiday Township Registration Division JS Mpumalanga, excluding however erf 76 of such township.</p> <p>ii) The entire township known as Kranspoort Extension 1 Holiday Township Registration Division JS Mpumalanga.</p> <p>iii) Portion 36 (a portion of portion 6) of the Farm Rietvallei Registration Division JS Mpumalanga.</p>
3.1.11	Levies	shall mean all service fees determined by the Board and payable by residents to the Company in terms of Clause 7 below.
3.1.12	Managing Agent	means any person or body appointed by the Company as an independent contractor in terms of this Memorandum from time to time to undertake any functions on behalf of the Company or its Board.
3.1.13	Medium	means any medium of communication recognised by the Directors and the laws of the Republic of South Africa,



		including but not limited to: electronic mail, the internet, entries on the Kranspoort Vakansiedorp website, facsimile, telephone, short message system, audiovisual and audio compact disc.
3.1.14	Meeting	includes an adjourned meeting.
3.1.15	Member	means any member of the Company.
3.1.16	Memorandum <i>or</i> Memorandum of Incorporation	means this Memorandum of Incorporation, or as amended from time to time by special resolution.
3.1.17	Office	means the registered office of the Company.
3.1.18	Property <i>or</i> Land	means immovable property situated within the Kranspoort Scheme Township.
3.1.19	Register	means the Register of Members of the Company.
3.1.20	Representative	means the person nominated in terms

		of Clause 6.1.3 to exercise or assume the rights or obligations of Membership.
3.1.21	Rules	means the rules made by the Directors in terms of Clauses 8, 9, 10 or 11 as they apply from time to time.
3.1.22	Secretary	means the administrative secretary of the Company for the time being.
3.1.23	Act	means the Companies Act and the Companies Regulations of the Republic of South Africa as amended from time to time.
3.1.24	Surplus	includes revenue left after payment or provision for all expenses including operating budget and capital items in any particular year, as more fully determined by the Auditors of the Company each year.
3.1.25	Transfer	in relation to Property includes the transfer of Member's interest in a close corporation; the transfer of shares in a company or the change of trustees or beneficiaries in a trust holding Property in the Scheme.

- 3.2 Reference to Members represented by proxy shall include Members represented by an agent or *ex officio* officer appointed under a general or special power of attorney and reference to Members present or acting in person shall include companies (or trustees of a properly registered trust) represented or acting in a proper and lawful manner; and
- 3.3 expressions defined in the Act, or any statutory modification thereof, in force at the date on which this Memorandum become binding on the Company shall have the meaning so defined; and
- 3.4 words in the singular number shall include the plural and words in the plural number shall include the singular, words importing masculine gender shall include female gender, and words importing natural persons, shall include juristic persons, corporate entities and bodies corporate.
- 3.5 Reference to a party includes that party's successors and permitted assigns;
- 3.6 Where the day on or by which anything is to be done is not a business day, it must be done on or by the first business day that follows;
- 3.7 When a number of days is prescribed in this agreement, they must be calculated exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or Public Holiday, in which case, the last day shall be the next succeeding day which is not a Saturday, Sunday or Public Holiday. Such periods shall be expressed as "business days";
- 3.8 Any reference to a document includes an amendment or

supplement to, or replacement or novation of that document;

- 3.9 The captions appearing in this document are for reference purposes only and do not affect the interpretation thereof;
- 3.10 Where figures are referred to in numerals and words, if there is any conflict between the two, the words shall prevail.

#### **4. NON-PROFIT COMPANY WITH MEMBERS**

- 4.1 The Company is a non-profit company as defined in Section 1 of the Companies Act 71 of 2008.
- 4.2 The Company shall be a non-profit company with members as contemplated in item 4(1) of Schedule 1 to the Act.
- 4.3 The Company may only place funds which it has available for investment with a Financial Institution as defined in Section 1 of the Financial Services Board Act, Act 97 of 1990, or in listed securities as defined in section 1 of the Financial Markets Act, No 19 of 2012.

#### **5. MAIN OBJECT OF THE COMPANY**

- 5.1 The main object of the Company is to carry on, to promote, advance and to protect, manage and administer the communal and group interests of its Members in the Kranspoort Private Township developed on the area of the Kranspoort Scheme Township, as more fully described in 5.2 below and further subject to the provisions contained in the Act and this Memorandum of Incorporation, and in particular also subject to the provisions contained in Clauses 33, 34 and 35 below.
- 5.2 Without limiting the generality of 5.1 above, the enhancing of such

communal and group interests shall include the ensuring of acceptable aesthetic, architectural, environmental, security and living standards in the Kranspoort Scheme Township, the enhancement of the communal interests, safety and welfare of the Members of the Company, the maintaining of open spaces, the controlling of the aesthetic appearance of land, landscaping, buildings and improvements in or on the Kranspoort Scheme Township, controlling traffic, implementing security measures for the controlled access to the Kranspoort Scheme Township and the maintaining and cutting of grass, trimming of edges, weeding, tidying and watering of public gardens in the Communal Areas, controlling the acceptable conduct of all persons and animals on the Kranspoort Scheme Township, the supply of certain services to the Kranspoort Scheme Township and the levying and collection of Levies against all Members and payment of expenses incurred in furtherance of the main object aforesaid.

- 5.3 For purposes of clarity it is provided that, in order to achieve the main objects of the Company as stated in Clauses 5.1 and 5.2 above, the Company shall also strive to hold, control, be vested with and exercise all necessary rights, whether real or otherwise in respect of any property or asset (whether owned by the Company or otherwise), in order to achieve the fulfilment of such objectives.

## **6. MEMBERSHIP**

### **6.1 GENERAL**

- 6.1.1 Subject to the further provisions of this Clause 6 below, the Members of the Company shall be those persons who appear on

the company's members register from time to time and registered owners of Property who become Members through written application.

6.1.2 No person other than a person referred to in 6.1.1 shall be entitled to be a Member of the Company.

6.1.3 Where two or more persons are registered co-owners or joint owners of a Property, all such registered co-owners or joint owners of that Property shall jointly constitute one Member of the Company, provided that each such co-owner shall be jointly and severally liable to the Company for the due performance of any obligation of such single membership. Such co-owners shall nominate one of them in writing to represent the registered owners.

6.1.4 When a Member ceases to be the registered owner of a Property, he shall *ipso facto* cease to be a Member of the Company.

6.1.5 A Member shall not sell or otherwise agree to alienate a Property or affect the transfer thereof unless such Member has complied with the provisions of Clause 13, and membership of the Company shall not be transferrable.

6.1.6 A Member may not resign as a Member of the Company.

6.1.7 The Company shall keep a register of Members at the place and in the manner specified in the Act.

6.1.8 The rights and obligations of Members shall not be transferable (subject to the provisions in Clause 6.1.8.3 below) and every Member shall:

6.1.8.1 Further, to the best of his ability, the objects and interests of the Company;

6.1.8.2 Comply with the provisions of this Memorandum of Incorporation and the Rules and without affecting the generality of this Clause, pay all Levies, penalties, charges, interest and assessments which may become payable by such Member in terms of this Memorandum, inclusive of the payment of any charges for electricity, water and other services supplied to any Property registered in the name of such Member;

6.1.8.3 observe and adhere to all rules made by the Company;

6.1.8.4 sign all documents and do all things necessary to enable the vesting and registration of whatever servitudes may be required for services to be registered whether over or in favour of any portion of Land in the Scheme and including the provision of security facilities. Nothing contained in this Memorandum shall prevent a Member from ceding his rights in terms of this Memorandum as security to mortgage that Member's Property.

## **6.2 CLASSES OF MEMBERS AND RIGHTS AND OBLIGATIONS OF SUCH CLASSES**

6.2.1 The Company shall have one class of Members namely voting members.

## **6.3 VOTING RIGHTS**

6.3.1 Each Member shall have the same voting rights, namely 4 (four) votes per membership held in respect of a Property, subject to the following qualification:

6.3.1.1 if a Member is indebted to the Company in respect of any matter such as levies, interest, penalties, etc, for a period of at least sixty days, the voting rights of that Member in any meeting of the Company in which voting will take place, shall diminish to one vote, inclusive of voting on a poll. Should the Member pay all debt due and payable to the Company, his voting rights shall revert to four

votes at a meeting. If a member delivers proper proof of payment of such outstanding debts at any stage before voting at any meeting of the Company commences, he shall be entitled to the four votes of his membership.

## **7 LEVIES**

- 7.1 The Company shall be entitled to impose Levies payable by its Members on Property held in the Kranspoort Scheme Township. The Directors may from time to time determine the Levies payable by the Members for the purpose of meeting all the expenses which the Company has incurred, or which the Directors reasonably anticipate the Company will incur in the attainment of its objects or the pursuit of its business.
- 7.2 The Directors shall not less than 30 (thirty) days prior to the end of each financial year, or as soon thereafter as is reasonably possible, prepare and serve upon each Member at the address chosen by him an estimate in reasonable detail of the amount which shall be required by the Company to meet its expenses during the following financial year, and shall specify such deficiency, if any, as shall result from the preceding year. The Directors may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of a repetitive annual nature.
- 7.3 Each such notice to a Member shall specify the contribution payable by that Member to such expenses and reserve fund. The Board of Directors are duly authorised, in determining the Levies payable by Members, to rationally and reasonably differentiate between certain erven and to determine the Levies in accordance thereto, inclusive of the right to, in writing, waive or suspend (subject to conditions or not) the payment of any Levy, whether current or arrear, or interest thereon, levied at any time by the Company.
- 7.4 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.
- 7.5 In the event of the Directors for any reason whatsoever failing to



prepare and timeously serve the estimate referred to in Clause 7.2 above, every Member shall, until served with such estimate, continue to pay the Levy previously imposed and shall, after such service, pay such Levy as may be specified in such notice.

- 7.6 The Directors may from time to time impose special Levies upon the Members in respect of all expenses as are mentioned in Clause 7.1, which are not included in any estimate made in terms of Clause 7.2, and may in imposing such Levy determine the terms of payment thereof.
- 7.7 The Directors shall be empowered, in addition to such other rights as the Company may have in law against its members, to determine the rate of interest that may be charged from time to time upon arrear Levies, provided that such rate of interest shall not exceed the rate laid down in terms of the Prescribed Rate of Interest Act 55 of 1975, as amended.
- 7.8 Any amount due by a Member by way of Levy and interest shall be a debt due by him to the Company. The obligation of a Member to pay Levies and interest shall cease upon his ceasing to be a Member without prejudice to The Company's right to recover arrear Levies and interest. A Member's successor in title to any land in the Scheme shall be liable as from the date upon which he becomes a Member pursuant to the transfer of that land to pay the Levy and interest attributable to that land.
- 7.9 No property in the Scheme shall be capable of being transferred nor shall the owner be entitled to enter into a lease agreement in respect of such property without a clearance certificate first being obtained from the Company confirming that all Levies and interest have been paid up to and including the date of transfer of such land or date of the lease agreement, whichever is applicable.
- 7.10 Levies paid in advance shall be subject to a pro rata refund when a Member ceases to be a Member.
- 7.11 A Member shall be liable to pay all legal costs, including costs as between attorney and client, including collection commission,

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.

- 7.12 The Directors shall operate a current account in name of the Company at a registered commercial bank, into which Levies shall be deposited.
- 7.13 Notwithstanding anything to the contrary herein contained, the Directors shall be entitled to impose an additional special penalty Levy against any Member who fails to complete the construction of a residence on any Property registered in the name of such Member within a period to be determined by the Directors in their sole discretion from time to time, but without prejudice to the rights of members in respect of building deadline time periods in existence at the time the directors make the determination. The amount of such special penalty Levy shall not exceed the amount of five times the normal Levy, levied in terms of this Memorandum.
- 7.14 Notwithstanding anything to the contrary herein contained, it is recorded that the consumption of water and other services supplied by the Company to a Property shall be charged to the Member that is the registered owner of such Property and such shall for all purposes of this Clause 7 be deemed to be part of the Levy payable by such Member hereunder. Any other charges, penalties, arrears on services supplied during any period or interest that may become payable by any Member hereunder, shall similarly be deemed to be part of the Levy payable by such Member.
- 7.15 Any failure by a Member to pay such Levy or any part thereof to the Company shall, despite any other right that the Company may have in terms of this Memorandum or in law, entitle the Company to limit the supply of water and any other services, or to levy an additional or penalty charge on the supply of such service, in the sole and exclusive discretion of the Company, to such Member or the Property of which the Member is the registered owner, pending the payment of all amounts due and payable to

the Company.

- 7.16 It is recorded that no set-off of any amount of any claim whatsoever that any Member might have or allege or purport to have against the Company at any time shall be capable of being made against any Levy payable by such Member to the Company hereunder. The Company shall be entitled to, in its sole discretion, prioritise and allocate any payment received from a Member to that Member's general Levy account or arrears or interest charged or any other item on such Levy account.
- 7.17 Each and every Member shall be deemed to have waived any possible claims for damages or consequential damages against the Company resulting from the limitation, suspension or cessation of the supply of water or other services to any Property of which such Member is the registered owner during any period:
- 7.17.1 if the Company considers it reasonable to limit, suspend or cease such supplies of water or services for purposes of maintenance, repairs or works to relevant infrastructure;
- 7.17.2 when the Company is reasonably unable to supply for any reason whatsoever (inclusive, but not limited to, the inability to obtain delivery of bulk supply of electricity and water from the suppliers thereof for any reason whatsoever);
- 7.17.3 when the Member is in arrear with the payment of Levies hereunder or in breach of any of the provisions of this Memorandum or the terms and conditions of such supply in any way.

## **8 RULES**

- 8.1 Subject to any restriction imposed or approval given by the Members at a General Meeting of the Company, the Directors may from time to time make and implement Rules of the Company in respect to the furtherance and promotion of any of the objects of the Company and/or for the better management of the affairs of the Company and/or for the advancement of the interest of Members and/or

residents of the Kranspoort Scheme Township, or the use by Members, the members of their households, employees, their guests, and lessees, of Communal Areas and amenities, which may include, but shall not be limited, to rules in respect of:

- 8.1.1 Architectural and building guidelines.
- 8.1.2 The use of the Communal Areas and open areas within the Scheme.
- 8.1.3 The preservation of the environment, including the right to control vegetation and the right to prohibit and/or control the erection of walls, fences and hedges, whether upon or within the boundaries of any Land or portion of the Kranspoort Scheme Township.
- 8.1.4 The right to prohibit, restrict or control the keeping of any domestic and/or wild animals.
- 8.1.5 The use, maintenance, repair or replacement of any roadway, which vest in or is controlled by the Company and of any services, connections and equipment under or over such roadway.
- 8.1.6 The access to and egress from any of the portions or areas of the Kranspoort Scheme Township.
- 8.1.7 The right to determine and control all security measures in the Kranspoort Scheme Township.

- 8.1.8 The placing and affixing of signs, ornamentation and embellishments upon the outside of the buildings including the power to remove any such objects.
- 8.1.9 The conduct of members within the Kranspoort Scheme Township for the prevention of any nuisance of any nature.
  - 8.1.9.1 The control and collection of refuse.
- 8.1.10 The control and regulation of Traffic and speed controls and limits within the Kranspoort Scheme Township.
- 8.2 For the enforcement of any of the Rules the Directors may:
  - 8.2.1 take or cause to be taken such steps as they may consider necessary to remedy the breach of a rule of which a Member may be guilty, and debit the reasonable cost of so doing to the Levy account of the Member concerned, which amount shall then be deemed to be a debt owing by the Member concerned to the Company, and/or;
  - 8.2.2 impose and levy a system of fines or other penalties, provided that the amounts of such fines may be reviewed and/or approved at any annual General Meeting of the Company, and/or;
  - 8.2.3 take such action, including court proceedings, against any Member or resident within the Kranspoort Scheme Township for the enforcement of any of the rights of the Company in terms hereof. The Company shall be entitled to recover, on demand, all legal costs and disbursements so incurred from the Member or resident concerned, calculated as between attorney and own client.
  - 8.2.4 In the event of any breach of the Rules by a Member or any Member's household, or his guest or employee or lessee, 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 sole discretion may deem fit.
  - 8.2.5 In the event of any Member disputing the fact that he has committed a breach of any of the rules aforesaid, a panel of 3 (three) Members who are not directors of the Company and appointed by the Chairman

for that purpose, shall adjudicate upon the issue at such time and place and in such manner and according to such procedure as the Chairman may direct, provided that a Member shall be entitled to assistance from an independent mediator, the costs of whom will be borne by the Member. The decision of such panel shall be final and binding on all parties concerned with such decision.

- 8.2.6 Notwithstanding the foregoing, the Directors may in the name of the Company enforce the provisions of the Rules by proceedings in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.
- 8.3 The Directors are empowered to ensure compliance by the Members with the Rules, and to this end, to issue such notices or do such things as may be reasonably necessary or requisite, and may delegate such authority to any duly mandated general manager or Managing Agent.
- 8.4 Each Member of the Company shall comply with all rules made in terms of Clauses 8, 9, 10 and 11.
- 8.5 Any fine or penalty imposed upon any Member or resident shall be deemed to be a debt by the Member or resident to the Company and shall be recoverable by ordinary civil process.
- 8.6 The Company may institute legal action for the recovery of any arrear amounts due to it. In such cases, Members cited in such issues shall be responsible for all legal costs incurred by the Company, inclusive of attorney and client costs and collection commission

## **9 MAINTENANCE**

The Directors shall have the power within the parameters contained herein:

- 9.1 From time to time to determine the routine maintenance requirements

of the Communal Areas, and to instruct the duly authorised employee or Managing Agent or any contractor to attend to such maintenance requirements on behalf of and at the cost of the Company;

- 9.2 To maintain any security facilities, infrastructure or measures related to the Communal Areas.
- 9.3 To cut, or cause to be cut, fire breaks on undeveloped properties that are deemed by the Board to be hazardous or necessary, where the Member has failed to do so despite written notification from the Company. The costs incurred by the Company in cutting such firebreaks will fall to the Levy account of the Member concerned and will be a debt payable to the Company.

## **10 AESTHETICS**

- 10.1 Subject to any restriction or direction given at any General Meeting of the Company, and subject always to any restrictions contained in any title deed and/or deed of transfer of any property, the Directors may from time to time make, amend, proclaim, set up or incorporate rules pertaining to:
  - 10.1.1 The aesthetics, standards and guidelines for the architectural design (inclusive of the color of any paint and finishing used on the exterior) of all buildings and outbuildings, structures of any nature and all additions and alterations to any such buildings, outbuildings, or structures erected or to be erected on a Property.

- 10.1.2 The location or placement of all buildings, outbuildings, structures of any nature and of any additions and alterations thereto.
- 10.1.3 The preservation of the environment including the right to control vegetation and the right to prohibit and/or control the erection of walls and fences, whether upon or within the boundaries of any Property.
- 10.1.4 The use, maintenance, repair and replacement of any roadway to be constructed within the Kranspoort Scheme Township, and of any services, connections and equipment under or over the roadway.
- 10.2 No Member may deviate from the aesthetic rules drafted or incorporated pursuant to 10.1 above.
- 10.3 The Directors may serve notice on any Member to the effect that the Directors consider the appearance of any Land or building vested in the Member or Members as unsightly or injurious to the amenities or appearance of the surrounding area. In such notice the Directors shall specify the steps that are to be taken by the Member or Members to eliminate such unsightly or injurious conditions. Should the Member or Members fail to comply therewith, within such reasonable time as is specified in the notice, the Directors or their duly appointed contractor may enter upon the property concerned and take such steps as may be necessary to remedy the situation, and thereafter to recover any reasonable costs such incurred from the Member or Members concerned which costs shall be deemed to be a debt due and owing to the Company.
- 10.4 No Member of the Company may:
  - 10.4.1 Erect any fencing, walling or paving on any Land within the Kranspoort Scheme Township without the prior written approval of the Company, which approval shall not unreasonably be



withheld; provided that, notwithstanding the foregoing, the Directors may withdraw such approval if, in their absolute discretion, such fencing, walling or paving is inconsistent with, or detracts from, the aesthetic appearance of the homes, gardens and appurtenances in the Kranspoort Scheme Township.

10.4.2 Install or affix any unsightly or non-aesthetically pleasing fixtures or apparatus which are exposed to view on the exterior of any building or structure within the Scheme without the prior written approval of the Company.

10.4.3 Construct within the Scheme any buildings or structure, or effect any additions or alterations to the existing buildings and structures, or build any works of whatsoever nature, including, but without limiting the generality of the foregoing, carports, garages, living quarters, storerooms and pergolas, whether of a temporary or permanent nature, without the prior written approval of the Company, which approval shall not unreasonably be withheld; provided that, notwithstanding the foregoing, the Directors may withdraw such approval if, in their absolute discretion, such building, structure, addition or alteration is not in keeping with the architectural style of any or all of the existing structures and buildings within the Scheme.

## **11 AMENITIES**

11.1 The Company may provide amenities and services to the Members and levy a reasonable charge in respect thereof.

11.2 The Company shall be responsible for the maintenance of all amenities situated on the Communal Areas, and may make, and alter from time to time, such rules as it may consider necessary regarding the use of any such amenities by Members, including

the charging of such fee as they may deem reasonable for the use or maintenance thereof.

- 11.3 Should the Company provide security services and/or other services to the Kranspoort Scheme Township or for Members or properties, all Members shall be obliged to:
- 11.3.1 Permit the installation of any equipment anywhere on the Land for the purposes of such services as may be determined by the Company from time to time.
- 11.3.2 Make payment of charges raised by the Company in respect of such services.
- 11.3.3 Abide by such terms and conditions as the Company may lay down for the provision of such services from time to time.
- 11.4 Where the boundary of a Member's Property also constitutes the boundary of the Scheme, such Member shall be obliged to permit the Company to erect upon such Member's Property immediately adjacent to the boundary such walling, fencing, barbed wire or other equipment as the Company may determine. Such Member shall not be entitled to interfere in any manner whatsoever with such walling, fencing, barbed wire or equipment, and is obliged to permit The Company free access to the boundary walls, fencing, barbed wire and equipment in order to inspect, maintain, repair or replace it.

## **12 MANAGING AGENT**

- 12.1 The Directors may from time to time, and shall if required by a majority vote of the Members of the Company in General Meeting, appoint in terms of a written contract a Managing Agent to control, manage and administer the affairs of the Company or certain functions or powers thereof, and to exercise such powers

and duties as may be entrusted to the Managing Agent, including the power to collect Levies from the Members.

- 12.2 The Directors shall ensure that the agreement concluded between the Company and the Managing Agent contains a provision in terms of which the Managing Agent agrees to be bound by the provisions of this Memorandum.
- 12.3 The Directors shall ensure that there is included in the contract of appointment of the Managing Agent a provision to the effect that if it is in breach of any of the provisions of its mandate or contract, or if it is guilty of conduct which at common law would justify the termination of a contract between master and servant, the Directors may cancel such contract of appointment and the Managing Agent shall have no claim whatsoever against the Company or any of the Members as a result of such cancellation.
- 12.4 The contract with the Managing Agent shall further provide for the appointment to be revoked and the Managing Agent shall cease to hold office if:
  - 12.4.1 where the Managing Agent is a juristic person, an order is made for its provisional or final Liquidation, or it applies for or is subjected to business rescue in terms of the Act; or
  - 12.4.2 where the Managing Agent is a natural person, he surrenders his estate as insolvent or his estate is sequestrated (whether provisionally or final); or
  - 12.4.3 the Managing Agent or any of its managers or personnel is convicted of an offence involving fraud or dishonesty; or
  - 12.4.4 where the Managing Agent is a juristic person, any of its Directors or members is convicted of an offence involving fraud or dishonesty; or
  - 12.4.5 a special resolution of the Members of the Company is passed to that effect;

provided that in any such event the Managing Agent so removed from office shall not be deprived of any right it may have to claim compensation for work done properly during its tenure as Managing Agent.

- 12.5 The Managing Agent shall keep full records of his administration and shall report to the Company on all matters under its management, including which in its opinion detrimentally or negatively affect the value of any Property.
- 12.6 The Directors shall:
- 12.6.1 give reasonable prior notice to the Managing Agent of all relevant meetings of the Directors, and the Managing Agent or his representative shall be required to be present thereat;
  - 12.6.2 from time to time furnish the Managing Agent with copies of the minutes of all relevant meetings of the Directors and of the Company.
- 12.7 Although the Directors may appoint a Managing Agent in terms of this Clause 12, the duties and responsibilities referred to in Clause 12.1 remain with the Directors.

### **13 RESTRICTION ON THE TRANSFER, SUBDIVISION, CONSOLIDATION AND / OR REZONING OF LAND**

- 13.1 No Member shall sell or transfer or otherwise cease to be an owner of his Property unless:
- 13.1.1 the Company, under the hand of the duly authorised general manager or Managing Agent (acting as agent for and on behalf of the Company) or any other duly authorised person, has certified in writing that the Member has fulfilled all his financial obligations to the Company in respect of the period up to and including the date specified in such notice; and
  - 13.1.2 the transfer takes place on or before the date specified in the notice referred to in 13.1.1;

- 13.1.3 the proposed transferee has irrevocably agreed in writing, to the satisfaction of the Company, to become a Member of the Company and to be bound by the provisions of this Memorandum and the Rules;
- 13.1.4. A Member shall not subdivide, consolidate or rezone any Property without the prior written consent of the Company first having been obtained, which consent the Company shall be entitled to grant or refuse in the absolute discretion of the Board.

## **14 GENERAL MEETINGS**

- 14.1 The Company shall from time to time hold Annual General Meetings. Such meetings shall be held within not more than 9 (nine) months after the end of every ensuing financial year and within not more than 15 (fifteen) months after the date of the last preceding Annual General Meeting.
- 14.2 Members may only convene a General Meeting of the Company:
  - 14.2.1 in compliance with the provisions of section 61(3)(b) of the Act;
  - or
  - 14.2.2 if so authorised in terms of an order of a competent court issued in terms of section 61(12) of the Act.
- 14.3 **The Directors:**
  - 14.3.1 may convene a General Meeting of the Company whenever they deem it fit;
  - 14.3.2 shall convene a General Meeting if requisitioned in terms of the Act.
- 14.4 Subject to the provisions of the Act:
  - 14.4.1 All General Meetings whether annual or otherwise; and
  - 14.4.2 all adjourned General Meetings,
    - shall be held at such time and place, as the Directors shall appoint, provided that such venue is reasonably accessible to Members.
- 14.5 The Directors of the Company may, if a proposed resolution is received in time, include the proposed resolution in the notice of

any meeting the Company has scheduled; or otherwise issue a copy of the proposed resolution to all Members by whatever convenient means, as quickly as possible, before the meeting, but within the period required for the notice or agenda to be circulated to Members.

## **15 NOTICE OF GENERAL MEETINGS**

- 15.1 Not less than **15 (fifteen)** business days written notice shall be given of all Annual General Meetings or meetings called for the passing of a special resolution and not less than **10 (ten)** business days written notice shall be given of any other General Meeting:
  - 15.1.1 to all of the Members of the Company.
- 15.2 The notice of a general meeting of Members must be in writing and must include-
  - 15.2.1 the date, time and place for the meeting, and the record date for the meeting;
  - 15.2.2 the general purpose of the meeting, and any specific purpose contemplated in section 61(3)(a) of the Act, if applicable;
  - 15.2.3 a copy of any proposed resolution of which the Company has received notice, and which is to be considered at the meeting, and a notice of the percentage voting rights that will be required for that resolution to be adopted.
  - 15.2.4 In the case of an annual general meeting of the Company-
    - 15.2.4.1 the financial statements to be presented or a summarised form thereof; and
    - 15.2.4.2 directions for obtaining a copy of the complete annual financial statements for the preceding financial year; and
    - 15.2.4.3 a reasonable prominent statement that a Member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend, participate in and vote at the meeting in the place of the Member, or two or more proxies if the Memorandum of

- Incorporation of the Company so permits;
- 15.2.5 a proxy need not also be a Member of the Company; and
- 15.2.6 section 63(1) of the Act requires that meeting participants provide satisfactory identification.
- 15.3 Whenever notice of a meeting is given pursuant to this Clause, the Company shall forward a copy thereof to the auditors of the Company and to the Managing Agent.
- 15.4 Participation in General Meetings of the Company by electronic communication as provided for in Section 63 (2) of the Act will not be allowed.
- 15.5 An immaterial defect in the form or manner of giving notice of a Members meeting, or an accidental or inadvertent failure in the delivery of the notice to any particular Member to whom it was addressed, does not invalidate any action taken at the meeting.
- 15.6 Written Notice of meetings shall be given to members in the manner described in Clause 30, below.

## **16. VERIFICATION OF RIGHT TO ATTEND MEETING**

- 16.1 A person wishing to attend or participate in a Member's meeting (whether as a proxy or Representative or Member), must present reasonably satisfactory identification to the person presiding at the meeting before the time scheduled for the start of the meeting. The person presiding at the meeting must be reasonably satisfied that the right of the person to attend and vote has been reasonably verified. For the purposes of this Clause, the following forms of identification shall be reasonably satisfactory: a valid identity document, driver's license or passport (or a certified copy of any of these documents), and if the person attends as proxy, accompanied by a properly signed proxy form, power of attorney, letter of authority or other proper instrument appointing the proxy or person to attend the meeting on behalf of a Member.
- 16.2 In the event that the identification process is not completed by the

time that the meeting is scheduled to begin, then the commencement of the meeting shall be delayed until the identification process is complete.

## **17. PROCEEDINGS AND QUORUM AT GENERAL MEETINGS**

- 17.1 The Annual General Meeting shall deal with and dispose of all matters prescribed by the Act, including the consideration of the Chairperson's Report and annual financial statements, the election of Directors and the appointment and remuneration of an auditor.
- 17.2 The Annual General Meeting shall also deal with any other business laid before it only if such other business has been given proper notice of in the notice calling for the relevant meeting.
- 17.3. Subject to the provisions of Clause 17.8 below:
- 17.3.1 A general meeting of Members may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least **15%** of all of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and
- 17.3.2 A matter to be decided at the meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise, in aggregate, at least **15%** of all of the voting rights that are entitled to be exercised on that matter at the time the matter is called on the agenda.
- 17.3.3 No business shall be transacted at any General Meeting unless proper notice of such business has been given in the notice calling for the meeting and a quorum is present.
- 17.4 A corporate body, being a Member of the Company, and which is represented by a duly appointed representative, shall be deemed to be a Member personally present for the purpose of this Clause.



- 17.5 If:
- 17.5.1 within thirty minutes from the time appointed for the meeting: or
- 17.5.2 at any time during the course of the meeting, a quorum is not present; the meeting shall be adjourned.
- 17.6 An adjourned meeting shall stand adjourned to a date not earlier than 7 (seven) days and not later than 21 (twenty one) days after the date of the meeting as the Chairman may determine, and at the same time and place or, if not possible, at such other time and/or place as the Chairman of the meeting shall appoint.
- 17.7 If at such adjourned meeting a quorum is not present within 30 (thirty) minutes from the time appointed for holding the adjourned meeting, Members who are present in person or by way of proxy and are entitled to vote shall be a quorum and may transact the business for which the meeting was called.
- 17.8 The Chairman of the Board, or in his absence, the Deputy Chairman of the Board (if any) shall preside as Chairman at every General Meeting of the Company.
- 17.9 If at any general meeting neither the Chairman nor the Deputy Chairman of the Board is present within 15 (fifteen) minutes after the time appointed for the meeting, or if neither of them is willing to act as Chairman, the Directors present shall choose one of their number to act as such, but if one Director only is present, he shall preside as Chairman if he is willing to act.
- 17.10 In the absence of a Chairman in terms of Clause 17.9 or 17.10 above, the Member present shall elect one of their number to act as Chairman.
- 17.11 The Chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by a majority vote of the meeting) adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting, except such business as may lawfully have

been transacted at the meeting which was adjourned.

- 17.12 At a General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded:
  - 17.12.1 by not less than 5 (five) Members or proxies representing Members; or
  - 17.12.2 by a Member or Members representing not less than ten percent of the total voting rights of all the Members present in person or by proxy and having the right to vote at the meeting.
  - 17.12.3 If voting on a particular matter is by polling, any Member present or represented by proxy, has the number of votes determined by the membership he has in the Company.
- 17.13 Unless a poll is demanded, and the demand has not been withdrawn, a declaration by the Chairman of the meeting that a resolution has, on a show of hands, been passed unanimously or by a particular majority, or rejected, an entry made to that effect in the minute book shall be conclusive evidence of that fact.
- 17.14 The result of a poll shall be deemed to be the resolution of the meeting at which the poll was held.
- 17.15 The Chairman of a meeting shall himself act, or appoint persons to act, as scrutineers for the purpose of checking the proxies received and for counting the votes at the meeting.
- 17.16 If any votes were counted which ought not to have been counted or if any votes were not counted which ought to have been counted, the error shall not vitiate the resolution unless:
  - 17.16.1 it be brought to the attention of the Chairman at the meeting; and
  - 17.16.2 in the opinion of the Chairman of the meeting, it is of sufficient magnitude to vitiate the resolution.
- 17.17 Any objection to the admissibility of any vote (whether on a show

of hands or on a poll) shall be raised:

- 17.17.1 at the meeting or adjourned meeting at which the vote objected to was recorded; or
  - 17.17.2 at the meeting or adjourned meeting at which the result of the poll was announced, and every vote not then disallowed shall be valid for all purposes. Any objection made timeously shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.
- 17.18 Even if he is not a Member:
- 17.18.1 the Company's attorney or auditor (or where such is a firm, any partner thereof); or
  - 17.18.2 any advisor or consultant invited by the Directors to address the meeting on any issue on the agenda, may attend and speak at any General Meeting, but may not vote unless he is the proxy or representative of a Member.

## **18. VOTES OF MEMBERS**

- 18.1 At every General Meeting:
- 18.1.1 Every Member present in person or by proxy shall, subject to the provisions of Clause 6.2 above:
    - 18.1.1.1 On a show of hands, have 4 (four) votes; and
    - 18.1.1.2 on a poll, have 4 (four) votes in respect of each Property of which he is the registered owner; or
    - 18.1.1.3 have 1 (one) vote, if he is indebted to the Company as set out in Clause 6.3.1.1 above, whether voting is on a show of hands or on a poll.
  - 18.2 Any corporate body which is a Member, may, by resolution of its Directors or other governing body, appoint a person to act as its representative at any General Meeting of the Company.
    - 18.2.1 Such representative shall be entitled to exercise the same rights

on behalf of the corporate body which he represents as that corporate body could exercise if it were an individual who was a Member of the Company.

- 18.2.2 The chairperson may, but shall not be obliged to require proof to his satisfaction of the appointment or authority of such representative.
- 18.3 The parent or guardian of a minor, the *curator bonis* of a mentally disturbed Member, the liquidator of an insolvent Member and the executor of the deceased estate of a Member, may vote at any General Meeting in the same manner as if he was a Member of the Company, Prior to the time of holding but it is recommended to provide it at least forty eight hours before the time of holding the meeting at which he proposes to vote, he shall satisfy the Directors that he is such parent, guardian, curator, liquidator or executor, or that the Directors have previously admitted his right to vote in respect of such Member.

## **19. MEMBERS' RESOLUTIONS**

- 19.1 Every resolution of members is either an ordinary resolution or a special resolution.
- 19.2 For an ordinary resolution of Members to be approved at a duly constituted meeting of members, it must be supported by more than 50% of the voting rights exercised on the resolution.
- 19.3 For a special Resolution of Members to be approved on a duly constituted meeting of Members, it must be supported by at least 65% of the voting rights exercised on the resolution.
  - 19.3.1 A special resolution is required to:
    - 19.3.1.1 Amend the Memorandum of Incorporation to the extent required by sections 16(1)(c) and 36(2)(b) of the Act.;
    - 19.3.1.2 Ratify a consolidated revision of the Memorandum of Incorporation as contemplated in section 18(1)(b) of the Act.;

- 19.3.1.3 Ratify actions by the Company or directors in excess of their authority, as contemplated in section 20(2) of the Act.;
- 19.3.1.4 approve the voluntary winding up of the Company as contemplated in section 80(1) of the Act;
- 19.3.1.5 approve the winding up of the company in circumstances contemplated in section 81(1) of the Act;
- 19.3.1.6 approve an application to transfer the registration of the company to a foreign jurisdiction as contemplated in section 82(5) of the Act;

## **20. PROXIES**

- 20.1 The appointment of a proxy shall be in writing under the hand of the person making such appointment or his agent, duly authorised in writing.
- 20.2 If the appointee be a corporate body, the proxy shall be signed in the prescribed manner and by the person who binds that corporate body.
- 20.3 The agent under a proxy of a Member is entitled, if so authorised by the proxy, to vote on behalf of and represent such Member at any meeting of the Company.
- 20.4 A proxy need not be a Member of the Company.
- 20.5 The Directors must send out with the notice of any meeting, forms of proxy for use at the meeting.
- 20.6 Every instrument of proxy, whether for a specified meeting or otherwise, shall be in the form or to the effect of the following, or in such other form as the Directors may approve, in either case under the heading of or referring to the Company's name:

KRANSPOORT EIENAARSKOMITEE NPC

"I/We,.....of.....  
 ..... being a Member(s) in respect of the  
 following  
 Property/ies:.....  
 .....]

of Kranspoort Eienaarskomitee NPC hereby appoint

..... of

..... or failing him

.....

.....of..... or failing

him the Chairman of the meeting as my/our proxy to vote on my/our behalf at the Annual  
 General Meeting or General Meeting (as the case may be) of the Company to be held on  
 the .....day of.....and at any adjournment thereof as follows:

	In Favour of	Against	Abstain
Resolution no.			
Resolution no.			
Resolution no.			

(Indicate specific instruction to proxy by way of a cross in the space provided above).

Unless otherwise instructed, my/our proxy may vote as he thinks fit.

Signed this ..... day of .....

Signature: \_\_\_\_\_

(Note: A Member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote in his stead, and such proxy need not also be a Member of the Company.)

Note:

- A Member entitled to attend and vote is entitled to appoint a proxy to attend and vote and speak in his/her stead. A proxy need not be a Member of the Company.
- 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 months from the date of its execution.
- A vote given in accordance with the terms of a proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided that no intimation in writing of the death or revocation had been received by the Directors at any time before a vote is taken in respect of which the proxy exercises such vote.
- No Proxy shall be permitted to attend the meeting if they do not produce upon request reasonable proof of their identity and authority to attend the meeting.
- The Member's attention is drawn to the Reproduction of Section 58 of the Companies Act, 2008, below.
- A certified copy of the documentation evidencing the Representative's power to execute this proxy form and his appointment is to accompany this proxy form.

(**NOTE:** A Member entitled to attend and vote is entitled to appoint a proxy to attend, speak and on a poll vote in his stead, and such proxy need not also be a Member of the company.)

**PLEASE NOTE THE FOLLOWING EXTRACT FROM THE COMPANIES ACT (as modified for a non-profit company in terms of section 10(4) of the Act):-**

**Member's right to be represented by proxy**

**58.** (1) At any time, a member of a company may appoint any individual, including an individual who is not a member of that company, as a proxy to—

(a) participate in, and speak and vote at, a members meeting on behalf of the member;

or

(b) give or withhold written consent on behalf of the member to a decision contemplated in section 60, provided that the member may appoint more than one proxy to exercise voting rights attached to different voting rights held by the member.

(2) A proxy appointment—

(a) must be in writing, dated and signed by the member; and

(b) remains valid for—

(i) one year after the date on which it was signed; or

(ii) any longer or shorter period expressly set out in the appointment, unless it is revoked in a manner contemplated in subsection (4)(c), or expires earlier as contemplated in subsection(8)(d).

(3) Except to the extent that the Memorandum of Incorporation of a company provides otherwise—

(a) a member of that company may appoint two or more persons concurrently as proxies;

(b) a proxy may delegate the proxy's authority to act on behalf of the member to another person, subject to any restriction set out in the instrument appointing the proxy; and

(c) a copy of the instrument appointing a proxy must be delivered to the company, or to any other person on behalf of the company, before the proxy exercises any rights of the member at a members meeting.

(4) Irrespective of the form of instrument used to appoint a proxy—

(a) the appointment is suspended at any time and to the extent that the member chooses to act directly and in person in the exercise of any rights as a member;

(b) the appointment is revocable unless the proxy appointment expressly states otherwise; and

(c) if the appointment is revocable, a member may revoke the proxy appointment by—

(i) cancelling it in writing, or making a later inconsistent appointment of a proxy; and

(ii) delivering a copy of the revocation instrument to the proxy, and to the company.

(5) The revocation of a proxy appointment constitutes a complete and final cancellation of the proxy's authority to act on behalf of the member as of the later of—

(a) the date stated in the revocation instrument, if any; or

(b) the date on which the revocation instrument was delivered as required in subsection(4)(c)(ii).

(6) If the instrument appointing a proxy or proxies has been delivered to a company, as long as that appointment remains in effect, any notice that is required by this Act or the company's Memorandum of Incorporation to be delivered by the company to the member must be delivered by the company to—

(a) the member; or

(b) the proxy or proxies, if the member has—

(i) directed the company to do so, in writing; and

(ii) paid any reasonable fee charged by the company for doing so.



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(7) A proxy is entitled to exercise, or abstain from exercising, any voting right of the shareholder without direction, except to the extent that the Memorandum of Incorporation, or the instrument appointing the proxy, provides otherwise.

(8) If a company issues an invitation to members to appoint one or more persons named by the company as a proxy, or supplies a form of instrument for appointing a proxy—

(a) the invitation must be sent to every shareholder who is entitled to notice of the meeting at which the proxy is intended to be exercised;

(b) the invitation, or form of instrument supplied by the company for the purpose of appointing a proxy, must—

(i) bear a reasonably prominent summary of the rights established by this section;

(ii) contain adequate blank space, immediately preceding the name or names of any person or persons named in it, to enable a member to write in the name and, if so desired, an alternative name of a proxy chosen by the member; and

(iii) provide adequate space for the shareholder to indicate whether the appointed proxy is to vote in favour of or against any resolution or resolutions to be put at the meeting, or is to abstain from voting;

(c) the company must not require that the proxy appointment be made irrevocable; and

(d) the proxy appointment remains valid only until the end of the meeting at which it was intended to be used, subject to subsection(5).

(9) Subsection (8)(b) and (d) do not apply if the company merely supplies a generally available standard form of proxy appointment on request by a member."

NOTE: In order for a proxy to be valid for a particular meeting, such proxy must be submitted and filed with the Company at its office or served on a director of the company as soon as possible prior to the commencement time of the meeting but it is highly recommended to be submitted at least 40 hours prior to a particular meeting.

20.7 The instrument appointing a proxy to vote at a meeting of the Company shall be deemed also to confer authority to demand (or join in demanding) a poll, and for the purposes of the Act, a demand by a proxy shall be the same as a demand by a Member.

20.8 Any power of attorney and any instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed, or a certified copy of such power of attorney shall be deposited at the registered office or at such other place within South Africa as is specified for that purpose in the notice convening the meeting, as soon as possible before the

time appointed for holding the meeting or adjourned meeting at which the person named in such instrument proposes to vote.

- 20.9 Unless specifically otherwise stated in the proxy, no instrument appointing a proxy shall be valid after the expiration of 6 (six) months from the date thereof.

## **21. DIRECTORS**

### **21.1 Composition and Election of the Board of Directors.**

- 21.2 The Board shall at all times consist of a minimum of 7 (seven) directors and at no time exceed 9(nine) directors..

- 21.3 The Members are obliged to elect at least one third of the Directors each year (Item 5(1) of Schedule 1) and directors may be re-elected. This could mean that the obligation of members to elect directors could be fulfilled by the re-election of some serving directors, if the Members so choose.

- 21.4 The balance of the directors shall remain on the Board until they are not available to serve on the Board for any reason and where necessary, the serving Directors shall elect new directors – other than those directors that have to be elected by the Members.

- 21.5 This Memorandum does not stipulate any additional qualifications or eligibility requirements other than those set out in the Act for a person to become or remain a director or a prescribed officer of the Company.

- 21.6 The Board shall not be prohibited from appointing any person to fill any vacancy and serve as a director on a temporary basis until the vacancy is filled by election in accordance with Clauses 21.3 and 21.5 above.

- 21.7 The Company shall not have any alternate directors.

21.8 Only a Member of the Company and his / her spouse may be elected as a director of the Company.

## **22. REMUNERATION, DISQUALIFICATION AND INTERESTS OF DIRECTORS**

22.1 Remuneration:

22.1.1 This Memorandum does not limit, restrict or qualify the power of the Company to refund directors for out-of-pocket expenses incurred by them or for reasonable remuneration for services rendered to the Company at the direction of the Company during their service as directors as envisaged in the provisions of item 1(3) of Schedule 1 to the Act.

22.2 **Vacation, removal and/or disqualification:**

22.2.1 The office of a Director shall be vacated in any of the following events:

22.2.1.1 if his estate is sequestrated or he assigns his estate or enters into a general compromise with his creditors;

22.2.1.2 if he is found to be or becomes of unsound mind;

22.2.1.3 if he is removed by a resolution of the Company in general meeting in terms of section 71(2) of the Act or by the Board in terms of section 71(3) of the Act;

22.2.1.4 if he is, pursuant to the provisions of the Act or any order made there under, prohibited from acting as a Director;

22.2.1.5 if he resigns his office by notice in writing to the Company;

22.2.1.6 if he is absent from meetings of the Directors for three consecutive meetings without their approval of such leave of absence and otherwise than being away on the business of the Company, or fails to attend to the business of the Company for which he is responsible for more than three consecutive months; and

22.2.1.7 the Directors resolve that his office be, by reason of such absence vacated, provided that the Directors shall have power to grant to any Director leave of absence for a definite or indefinite period.

22.2.1.8 A Director may hold any other office or position of profit under the Company (except that of auditor) or any subsidiary of the Company in conjunction with his office of Director, for such period and on such terms as to remuneration and otherwise as a disinterested quorum of the Directors may determine.

22.2.1.9 A Director of the Company may be or become a director or other officer of, or otherwise own or control an interest in any other company and he shall not be accountable for any remuneration or other benefits received by him as a director or officer of or from his interest in such other company.

## **22.3 Directors Personal Financial Interests**

- 22.3.1 In this Clause the word "Director" shall include a prescribed officer and a person who is a member of a committee of the Board of the Company, irrespective of whether the person is also a member of the Company's Board; and "related person" when used in reference to a director, has the meaning set out in section 1 of the Act, but also includes a second company of which the Director or a related person is also a director, or a close corporation of which the Director or a related person is a member.
- 22.3.2 This provisions of Clause 22.3 does not apply to a Director of the Company in respect of a decision that may generally affect all of the Directors of the Company in their capacity as Director; or, a class of persons, despite the fact that the Director is one member of that class of persons, unless the only members of the class are the Director or persons related or inter-related to the director; or, in respect of a proposal to remove that Director from office as contemplated in section 71 of the Act.
- 22.3.3 At any time a director may disclose any personal financial interest in advance, by delivering to the Board a notice in writing setting out the nature and extent of that interest, to be used generally for the purpose of this Clause until changed or withdrawn by further written notice from that Director.
- 22.3.4 If a Director of the Company has a financial interest in respect of any matter to be considered at a meeting of the Board, or knows that a related person has a personal; financial interest in the matter, the Director:
- 22.3.4.1 must disclose the interest and its general nature before the matter is considered at the meeting;
  - 22.3.4.2 must disclose to the meeting any material information relating to the matter, and known to the Director;
  - 22.3.4.3 may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors;
  - 22.3.4.4 if present at the meeting, must leave the meeting immediately after

- any disclosure contemplated in 22.3.4.1 and 22.3.4.2 above;
- 22.3.4.5 must not take part in the consideration of the matter, except to the extent contemplated in 22.3.4.3 above;
- 22.3.4.6 while absent from the meeting in terms of 22.3.4.4, is to be regarded as being present at the meeting for the purpose of determining whether sufficient Directors are present to constitute the meeting; and is not to be regarded as being present at the meeting for the purposes of determining whether a resolution has sufficient support to be adopted;
- 22.3.4.7 Must not execute any document on behalf of the company in relation to the matter unless specifically so requested or directed to do so by the Board.
- 22.3.5 If a director of the Company acquires a personal financial interest in an agreement or other matter in which the Company has a material interest, or knows that a related person has acquired a personal financial interest in the matter, after the agreement or other matter has been approved by the Company, the Director must promptly disclose to the Board the nature and extent of that interest, and the material circumstances relating to the Director or related person's acquisition of that interest.
- 22.3.6 A decision by the Board, or a transaction or agreement by the Board is valid despite any personal financial interest of a Director or person related to the Director, only if:
- 22.3.6.1 it was approved following disclosure of that interest in the manner contemplated in this Clause 22.3; or
- 22.3.6.2 despite having been approved without disclosure of that interest, it has subsequently been ratified by an ordinary resolution of the Members following disclosure of that interest; or, has been declared to be valid by a court in terms of section 75(8) of the Act.

## **23 RETIREMENT OF DIRECTORS**

- 23.1 A Director retiring at a meeting shall retain office until the election of Directors at that meeting has been completed.

- 23.2 Retiring Directors shall be eligible for re-election without prior nomination.
- 23.3 No person, other than a Director retiring at the meeting shall, unless recommended by the Directors, be eligible for election to the office of a Director at any General Meeting, unless:
- 23.3.1 not more than fourteen, but at least seven business days before the day appointed for the meeting, there shall have been delivered at the office a notice in writing by a Member duly qualified to be present and vote at the meeting for which such notice is given, and;
- 23.3.2 such notice sets out the Member's intention to propose a specific person for election as Director; and
- 23.3.3 a notice in writing by the proposed person of his willingness to be elected is attached thereto.
- 23.3.4 Subject to the preceding Clause, the Company may at the meeting at which a Director retires, fill the vacated office by electing a person thereto and if no such election is made, the retiring Director, if willing to continue to act, shall be deemed to have been re-elected, unless:
- 23.3.5 it is expressly resolved at such meeting not to fill such vacated office; or
- 23.3.6 a resolution for the re-election of such Director shall have been put to the meeting and rejected.
- 23.4 The Board shall be entitled to appoint a suitable person as director for any casual vacancy that might occur on the Board, which appointment shall be valid until the Company in General Meeting appoints a person as Director to fill such casual vacancy.

## **24 POWERS OF DIRECTORS**

- 24.1 The management and control of the business and affairs of the Company shall be vested in the Directors who, in addition to the powers and authorities expressly conferred upon them by this

- Memorandum, may exercise all powers and authorities and perform all acts which may be exercised or done by the Company.
- 24.2 Such management and control may not be inconsistent with the Memorandum nor with the provisions of the Act.
- 24.3 The general powers given by this Clause shall not be limited or restricted by any special authority or power given to the Directors by any other act.

## **25 DUTIES OF DIRECTORS TO KEEP MINUTES**

- 25.1 The Directors shall cause minutes to be made of:
- 25.1.1 all appointments of prescribed officers made by the Directors;
  - 25.1.2 the names of the Directors present at each meeting of the Board;
  - 25.1.3 all resolutions and proceedings at each meeting of the Company;
  - 25.1.4 all resolutions passed by the Directors under Clause 26.10;
  - 25.1.5 all meetings of the Directors.
- 25.2 Minutes of any resolutions and proceedings mentioned in 25.1 appearing in the minute books of the Company shall be proof of the facts therein stated if signed by any person acting as the Chairman of the meeting to which it relates.

## **26 PROCEEDINGS AT MEETINGS OF DIRECTORS AND COMMITTEES**

- 26.1 The Directors may meet for the dispatch of business, adjourn, and otherwise regulate their meetings as they think fit, provided that such meetings are held at least quarterly.
- 26.2 A minimum of 6 (six) Directors shall form a quorum for a Board meeting.
- 26.3 Any director may, at any time, request the chairman of the Board to convene a meeting of the Board.
- 26.4 Only the chairman of the Board shall be authorised to convene such a meeting.



- 26.5 The Board shall determine the number of days notice to be given for Board meetings, and the form of that notice, provided reasonable notice is always given.
- 26.6 The Board may elect a Chairperson and a Deputy Chairperson (to act in the absence of the Chairperson) of their meetings;
- 26.7 If no Chairperson or Deputy Chairperson is elected, or if at any meeting the Chairperson or Deputy Chairperson is not present within ten minutes after the time appointed for holding the meeting, the Directors present shall choose one of their number to chair such a meeting.
- 26.8 Each Director has one vote on a matter before the Board.
- 26.9 All proposed resolutions arising at any meeting shall be decided by a majority of votes.
- 26.10 In case of an equality of votes, the Chairperson shall not have a second or casting vote and the matter voted on, shall fail.
- 26.11 A decision that could be voted on at a meeting of the Board may instead be adopted by written consent of a majority of the Directors, given in person or by electronic communication, provided that each Director has received notice of the matter to be decided (a "round robin resolution").  
Such a decision is of the same effect as if it had been approved by voting at a Board meeting.
- 26.12 The meetings and proceedings of any committee of the Board consisting of three or more Directors, shall be governed by the provisions hereof in regard to meetings and proceedings of the Directors so far as the same are applicable thereto, but may be amended by any decision made by the Board when appointing such committee.
- 26.13 All acts performed by the Directors or by a committee of Directors or by any person acting as a Director or a Member of a committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the Directors or persons acting as aforesaid, be as valid as if every such person

had been duly appointed and was qualified and had continued to be a Director or Member of such committee.

- 26.14 The Chairperson and/or the Board shall be entitled to seek the advice and assistance of advisors and/or consultants to the Board from time to time as the Chairman or Board, as the case may be, deem fit. For the purpose of providing such advice and assistance such advisors and/or consultants shall at the request of the Chairperson or the Board as the case may be, be entitled to attend meetings of the Board and to participate therein, but not to vote on any issue considered thereat.

## **27 AUTHENTICATION OF DOCUMENTS**

- 27.1 The Chairperson or any person appointed by the Board for such purpose shall have the authority to authenticate:
- 27.1.1 this Memorandum;
  - 27.1.2 any resolutions passed by the Board;
  - 27.1.3 any books, records, documents and accounts relating to the business of the Company,
  - 27.1.4 and to certify copies thereof or extracts there from as true copies or extracts.
- 27.2 Where any books, records, documents or accounts are elsewhere than at the registered office, the local Managing Agent or other officer of the Company or other person having the custody thereof shall be deemed to be a person duly appointed by the Directors for the abovementioned purpose.

## **28 BOOKS OF ACCOUNT AND ACCOUNTABILITY**

- 28.1 The Company does not elect, in terms of section 34(2), to comply voluntarily with the provisions of Chapter 3 (Enhanced Accountability and Transparency) of the Act, except to the extent contemplated in section 84(1)(c) of the Act.
- 28.1 The accounts of the Company must nevertheless be strictly

audited, in accordance with standards to be determined by the Directors from time to time by resolution, but which may be no less than those imposed by IFRS Small Business Compliant auditing.

- 28.2 The financial year of the Company ends on the last day of June each year unless otherwise determined by the Directors.

## **29 MEMBERS RIGHTS TO INFORMATION**

- 29.1 A Member has the right to inspect and make a copy of the following documents as contemplated in sections 24, 26 and 85 of the Act and this Memorandum;
- 29.1.1 the record of Directors and the members register;
  - 29.1.2 reports presented at an Annual General Meeting;
  - 29.1.3 annual audited financial statements;
  - 29.1.3 minutes of all Members meetings; and
  - 29.1.4 written communications sent generally by the Company to all Members.

## **30 SERVICE OF NOTICES AND LEGAL PROCESS**

- 30.1 Any notice or other document may be served by the Company upon any Member at his nominated address by:
- 30.1.1 delivering it to him personally; or
  - 30.1.2 dispatching it by electronic mail or telefacsimile or post in a prepaid envelope addressed to a Member at his relevant address notified to the Company.
- 30.2 A Member shall be bound by every notice given to him in terms of Clause 30.1.
- 30.3 Each Member of The Company shall notify the Company in writing of his physical and postal address within the Republic of South Africa, and/or an electronic mail and/or telefacsimile address, any

of which shall be his nominated address within the meaning of Clause 30.1 above. The Company shall be entitled, but not obliged, to give notice to any Member who has not notified the Company of the addresses contemplated in these Clauses, by publication thereof in the official website of the Company and/or the periodic newsletter of the Company published on its website.

- 30.4 No person other than a registered Member, alternatively such Member's executor, curator, trustee, liquidator or other legally appointed representative, as the case may be, whose address appears in the Register of Members shall be entitled to receive notice of General Meetings from the Company.
- 30.5 Any notice or other document, if served by post, shall be deemed to have been served on the third day after posting, and in proving such service, it shall be sufficient to prove that the notice or document was properly addressed, stamped and posted.
- 30.6 Any notice or other document, if served by hand, shall be deemed to have been served on the date of delivery.
- 30.7 Any notice or other document, if served by electronic mail, telefacsimile or other medium, shall be deemed to have been served on the day of transmission thereof.
- 30.8 Save as otherwise expressly provided, where a given number of days notice, or notice extending over any period is required to be given, the day of service shall not be counted in the number of days or other period.
- 30.9 All legal process may be served by or on behalf of the Company upon any Member at the address of any erf owned by him unless the register of Members has an alternate physical address as provided for in Clause 30.3. Such physical address, whether at his erf or at the address set out in the register, shall be a Member's nominated domicilium citandi et executandi. Each Member shall, upon request by the Company, furnish or confirm an email address for such member. If a Member has not confirmed or provided another email address within 7 (seven) business days of a request in writing by the Company, the address specified by the Company

in its request shall be deemed to be the Member's domicilium email address.

- 30.10 For the purpose of this Memorandum, the Company nominates its legal address for service, or domicilium citandi et executandi ("domicilium") as follows:

Address: 1 Kranspoort Drive, Kranspoort Dorp, Mpumalanga  
1080

or

PO Box 855, Kranspoort 1080.

- 30.11 The Company or a Member may change its domicilium at any time by notice in writing, provided that the new domicilium is in the Republic of South Africa and is a physical address at which process can be served.

### **31 INDEMNITY OF DIRECTORS**

- 31.1 This Memorandum does not limit, restrict or qualify the ability of the Company to advance expenses to a director to defend any legal proceedings arising from his service to the Company, or to indemnify a director against such expenses if the proceedings are abandoned or exculpate the director or arise in respect of any liability for which the Company may indemnify the director in terms of sections 78(5) and 78(6) of the Act.

- 31.2 This Memorandum does not limit, restrict or qualify the power of the Company to indemnify a director, former director, alternate director or prescribed officer in respect of any liability arising out of the director's service to the Company to the fullest extent permitted under the provisions of section 78 the Act, provided however that, subject to the provisions of sections 78(4) to (6) of the Act, any provision of an agreement, this Memorandum of Incorporation or Rules of the Company, or a resolution adopted by

the Company, whether express or implied, is void to the extent that it directly or indirectly purports to relieve a Director of a duty contemplated in section 75 or 76 of the Act; or liability contemplated in section 77 of the Act; or negate, limit or restrict any legal consequences arising from an act or omission that constitutes wilful misconduct or wilful breach of trust on the part of the Director.

- 31.3 This Memorandum does not limit, restrict or qualify the power of the Company to purchase insurance to protect a director against any liability or expenses for which the Company is permitted to indemnify a director in terms of the Act and this Memorandum of Incorporation, or the Company against any contingency.

## **32 PROHIBITION ON DISTRIBUTION OF INCOME AND PROPERTY**

- 32.1 The income and property of the Company, howsoever derived, shall be applied solely towards the promotion of its main object and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever, to any person who is or was an incorporator of the company, or who is a Member or director, or person appointing a director of the Company or to its controlling or controlled company; provided that nothing herein contained shall prevent payment in good faith of reasonable remuneration for goods delivered or services rendered to, or at the direction of the Company; or payment of, or reimbursement for, expenses incurred to advance a stated object of the Company; or as payment of an amount due and payable by the company in terms of bona fide agreement between the Company and that person or another; or as a payment in respect of any rights of that person, to the extent that such rights are administered by the Company in order to advance a stated object

of the Company; or in respect of any legal obligation binding on the Company and not inconsistent with the provisions of this Memorandum of Incorporation.

- 32.2 For the purposes of Clause 33.1, the investment of Surplus profit shall be permissible, provided that any profits occurring on such investments are applied solely towards the promotion of the main object of the Company.
- 32.3 Funds available for investment may only be invested with a financial institution as defined in section 1 of the Financial Services Board Act, No 97 of 1990, and in any listed securities as defined in section 1 of the Financial Markets Act, No 19 of 2012.

### **33 WINDING UP**

Despite any provision in any law or agreement to the contrary, upon the winding-up, de-registration or dissolution of the Company, no past or present Member or director of the Company, or person appointing a director of the Company, is entitled to any part of the net value of the company after its obligations and liabilities have been satisfied; and the entire net value of the Company must be distributed to one or more non-profit companies, registered external companies carrying on activities within the Republic, voluntary associations or non-profit trusts having objects similar to the main object of the Company, and as determined in terms of this Memorandum of Incorporation, or by the Members of the Company or its Directors, at or immediately before the time of its dissolution, or by the court, if this Memorandum of Incorporation or the Members or the Directors fail to make such a determination.

### **34 DONATIONS AND DISTRIBUTION OF FUNDS**

- 34.1 The Company may only make donations to other non-profit companies, voluntary associations or non-profit trusts having a main object similar to the Company's main objects.
- 34.2 The Company is not permitted to distribute its funds to any person other than a non-profit company, voluntary association or non-profit trust with main objects similar to those of the Company.

### **35 ALTERATION OF MEMORANDUM OF INCORPORATION**

- 35.1 This Memorandum of Incorporation may be amended only if the proposed amendment is approved by a Special Resolution passed at a properly convened and constituted meeting of Members.
- 35.2 If this Memorandum of Incorporation is amended then the Board must file a Notice of Amendment of the Memorandum of Incorporation in accordance with the Act and the amendment will take effect on the date the Notice of Amendment is filed with the Companies and Intellectual Property Commission or such later date as is specified in the Notice of Amendment.
- 35.3. The Board, or any individual authorised by the Board, may alter this Memorandum of Incorporation in a manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document by providing written notice of the proposed alteration to each Member. If none of the Members raise any objection to the proposed alteration to the effect that the proposed alteration exceeds the authority provided for in this Clause 36 within 5 (five) Business Days of receiving the notice of the proposed alteration, the Board may file the required Notice of Alteration. If any Member objects to the proposed alteration on the grounds aforesaid, the proposed alteration must be preceded by a Special Resolution.



- 35.4 The Board must publish a copy of the relevant alteration or amendment to the Memorandum of incorporation to each Member.
- 35.5 Any amendments to this Memorandum of incorporation shall be submitted to the South African Revenue Services.

## **36 GENERAL INDEMNIFICATION**

- 36.1 It is recorded that:
- 36.1.1 The Company constitutes a non-profit entity serving the communal interest of the Members in respect of their interests in the Kranspoort Scheme Township.
- 36.1.2 The services to be rendered to the Members by the Company are essential and necessary services effectively rendered by the Company to the Members for the benefit of the Members and effectively at the cost of the Members as a whole.
- 36.1.3 The company may from time to time supply some of the services to members itself or contract the supply of such services to independent third party contractors.
- 36.3 In order to protect the greater interests of the Members as a whole, it is provided that any unintentional or accidental or *bona fide* breach of the duties of the Company towards the Members or failure of any of the services supplied by the Company (or a contractor on behalf of the Company), shall not entitle any member to claim damages or compensation of any nature from the Company, save where *dolus*, dishonesty, *male fides* or intentional or deliberate misconduct by the Company or its representatives has given rise to such breach or failure to supply services resulting in material and financial damage.
- 36.4 Without affecting the generality of Clause 36.3 above, each member shall be responsible for the supply of adequate and proper security to his Property within the Kranspoort Scheme Township and to procure the safety and well being of all persons (including family, guests and workers) allowed by him to enter the Kranspoort Scheme Township.

36.5 Each Member hereby indemnifies and holds harmless the Company and its Board against any risk and liability in respect of any damage or loss not specifically provided for in this Memorandum, suffered by such member (or his family, guests or workers) resulting from any unintentional, incidental or accidental failure of services rendered by the company or its contractors in terms of this Memorandum of Incorporation.