

MEMORANDUM OF INCORPORATION

of

RESIDENTIAL COMMUNITIES COUNCIL NPC

REGISTRATION NUMBER:

2019/286942/08

INTERPRETATION

In these presents the following words shall, unless the context otherwise requires, have the meanings hereinafter assigned to them:

“**AGM**” means an Annual General Meeting of the Members of the Company;

“**ARC**” means the Association of Residential Communities, a profit company duly registered and established in terms of the Company Laws of the Republic of South Africa with registration number 2008/004674/23 and registered head office situated at 99 Taurus Road 14 SS Amberly, Sundowner Ext 60, Johannesburg.

“**ARC Members**” refers to the voluntary and paid up members of ARC consisting of various Homeowners Associations, Bodies Corporate, or similar governing bodies;

“**Auditors**” means the Auditors of the Company;

“**Board**” means the Board of Directors elected by the members at an Annual General meeting;

“**CAISA**” means the Community Associations Institute of South Africa, a non-profit company duly registered and established in terms of the Company Laws of the Republic of South Africa;

“**Chairperson**” means the Chairperson of the Board;

“**Company**” means the RCC or Residential Communities Council (NPC);

“Companies Act” means the Companies Act of 2008 including any amendments thereto. A reference to a section by number refers to the corresponding section of the Companies Act of 2008 and words that are defined in the Act bear the same meaning in this MOI as in the Act;

“Constitution” means this Memorandum of Incorporation or as from time to time amended;

“Director/s” means a member or members of the Board from time to time, duly elected or appointed in accordance with the provisions and this Memorandum of Incorporation, or an alternate director, and includes any person occupying the position of director, or alternate director, by whatever name designated;

“EGM” means an Extraordinary General Meeting called by the Members or the Board of the RCC;

“Experts” means individuals the Board co-opts for their expertise.

“Members’ Register” means the register of members required to be kept in terms of Section 24(4) of the Companies Act.

“Membership Category Numerator” or **“MCN”** means a determined value according to the number of levy accounts of the Member estate, which value shall determine such Member’s rights and obligations.

“MOI” means this Memorandum of Incorporation.

“Officer/s” means a Director or Directors, and any person who exercises general executive control over, and management of the whole or significant portion of the business and activities of the Company, or regularly participates to a material degree therein, irrespective of any particular title given to an office held or function performed;

“**RCC**” means the Residential Communities Council NPC duly established herein;

“**RCC Member and Member(s)**” means a member of RCC who shall be a Homeowners Association, a Body Corporate (or similar governing body), residential communities, Companies, associations or trusts (or any other legally competent and recognised RCI body) or an ARC Member on condition that they shall be a fully paid-up member. For purposes of this Memorandum of Incorporation, a reference in the Companies Act 71 of 2008 to “a shareholder”, “the holders of issued securities of that company” or “a holder of voting rights entitled to be voted” is a reference to the voting members of this non-profit company;

“**RCI**” means the Residential Community Industry and all related aspects of that industry which are part of it or affect it directly or indirectly and includes private residential developments governed and managed by a Homeowners Association, Body Corporate, or similar governing body, on behalf of and for the benefit of, their respective Members;

“**RCC Incorporators**” means a group of individuals, representing ARC Members within the RCI who have resolved to establish a national council as representative body for the RCI, all of whom, by their signature hereto warrant their authority to act for and behalf of such ARC Members;

“**Region**” means geographic regions in the Republic of South Africa or sub Saharan countries as defined by the Board from time to time as defined as follows

Gauteng East and South

Gauteng Central and West

Gauteng Pretoria and North

KZN and Freestate

Mpumalanga and Limpopo

North west and Northern Cape

Southern and Eastern cape

Western Cape

“**RWC**” means a Regional Working Committee, established by the Board in individual Regions as defined from time to time.

“**Service providers**” means any service provider the Board employs to provide services to the RCC;

1. FORMATION, NAME AND STATUS

1.1. The Company having the name, objects and powers set out herein has been originally incorporated and constituted on 19 September 2019 by the RCC Incorporators.

1.2. The Company is a Non-Profit Company as it is:

1.2.1. incorporated for a public benefit or other object as required by 1(1) of Schedule 1 to the Companies Act.

1.2.2. consistent with the principles set out in 1(2) to 1(9) of Schedule 1 to the Companies Act.

1.2.3. public benefit organisations as contemplated in section 30 of the Income Tax Act, 58 of 1962, as amended; and

1.2.4. prohibited from directly or indirectly distributing any of its funds to any person, otherwise than in the course of carrying out its stated objects and

is required to solely utilize its funds for the purpose that it has been established.

- 1.3 The name of the Company is the “Residential Communities Council NPC.
- 1.4 The RCC constitutes a voluntary association established in terms of this Memorandum of Incorporation.

2. PRINCIPLE PURPOSE AND OBJECTS OF THE RCC

- 2.1. Subject to any restriction, direction or mandate given by an ordinary resolution by the Members of RCC, its principle purpose and objects are:
 - 2.1.1. To formulate, deliberate and express the united voice, and be the representative of the RCI, including aspects with regard to the interaction between the industry and government (whether national, provincial or local), or any other statutory bodies, as well as interaction with any other public or private individual, entity or institution with regards to matters which may be of concern or interest to RCC Members.
 - 2.1.2. To self-regulate the RCI by formulating and prescribing the minimum standards, code of ethics and best practice policies in respect of any aspect within the RCI.
 - 2.1.3. To establish, regulate and sustain the RWC’s on behalf of RCC Members throughout the RCI, in order to carry out the functions identified by RCC Members as being consistent with those of a self-regulating industry.

- (a) RWC's shall be established by the Board and shall comprise of RCC Members as well as identified industry experts; and
 - (b) RWC's shall convene meetings for the conducting of business as directed by the Board.
- 2.1.4. To deliberate, formulate, promote, and defend amongst its RCC Members, the common interests of the RCI.
- 2.1.5. To promote a positive image of the RCI and RCC amongst the public at large.
- 2.1.6. To facilitate the exchange of information that may in any way be beneficial or relevant to the common interests of the RCI.
- 2.1.7. To build and establish relationships with South African, regional and international associations whose objects and interests are similar to those of the RCC.
- 2.1.8. To promote in general, all subjects which the RCC considers should be dealt with in accordance with its objects.
- 2.1.9. In carrying out its purpose and objectives the RCC recognizes ARC and the role it plays in terms of services it renders to the RCI, and shall not interfere with, replicate, or in any way compete with the services and products provided by ARC to the RCI unless ARC consents thereto in writing.
- 2.1.10. In carrying out its purpose and objectives the RCC recognizes CAISA, and the role it plays in the provision of the CAI USA qualifications and professional designations to individuals within the RCI and shall not interfere

with, replicate, or in any way compete with the services and products provided by CAISA to the RCI unless CAISA consents thereto in writing.

2.2. In pursuit of its principle purpose and objects the RCC will seek at all times to achieve the following:

2.2.1. The protection, sustainability, and growth of the RCI.

2.2.2. The effective representation to government at all levels, and civil society, as the single voice of the RCI.

2.2.3. The establishment and implementation of appropriate policy frameworks and policies for the RCI.

2.2.4. The assistance, encouragement, and remediation initiatives for all Members to achieve the established standards.

2.2.5. The recognition of 'Centres of Excellence' within the industry and in the global context.

2.2.6. The establishment of 'common sense agreements' with government departments, professional bodies and other business communities locally and globally.

2.2.7. The effective self-regulation of the industry.

2.2.8. The institution or defence of legal action on behalf of the RCI where such actions are of relevance and importance to the RCC Membership and the RCI.

- 2.2.9. The establishment of an effective advocacy function to scrutinise and evaluate existing and proposed legislation, to propose revisions to existing and proposed legislation, to propose new legislation, and to make representation to the appropriate authorities in such respect.
- 2.3. ARC is irrevocably appointed for an initial minimum period of 24 months (and thereafter automatically on a month-to-month basis unless written notice of termination is given by RCC) commencing on the date of the Company's registration, to manage the affairs of the RCC on behalf of the Board on a basis and on such terms as are agreed with the Board. It is recorded that:
- 2.3.1 ARC Members will automatically become RCC Members initially based on an increased ARC membership fee (of which ARC will pay a portion to be agreed to the RCC); and
- 2.3.2 The management services, as defined in the Services Level Agreement (to be concluded) shall be provided to the RCC by ARC without charge.
- 2.3.3 Clause 2.3 shall not be capable of deletion, removal or alteration for a period of 24 (twenty-four) months, and thereafter shall constitute a Reserved Matter as contemplated in Appendix "A";

3. CORPORATE GOVERNANCE AND ETHICS OF THE RCC

- 3.1. The RCC shall be underpinned by the following principles:
- 3.1.1. The RCC will respect the right of self-governance of each residential community.

- 3.1.2. The RCC will require RCC members to comply with the objectives of the RCC.
- 3.1.3. The RCC will further the interests of all stakeholders in the RCI.
- 3.1.4. The RCC will strive to achieve consensus in decision making and will actively subscribe to corporate governance and best practice benchmarks.
- 3.2. The RCC shall actively advocate and encourage all residential communities in particular, and the wider industry more broadly, to subscribe to agreed and established Industry Policies, Corporate Governance & Ethics Standards, and Codes of Practice.

4. POWERS OF THE RCC

- 4.1. Except to the extent necessarily implied by the Company's stated objects and this Memorandum of Incorporation, the purposes and powers of the Company are not subject to any restriction, limitation or qualification of the legal powers and capacity of the Company, as contemplated in section 19(1)(b)(ii).
- 4.2. The Company is not subject to any restrictive conditions as contemplated in section 15(2)(b) or (c), or to any prohibitive conditions (as envisaged in section 16) in respect of the amendment or addition to the requirements and provisions contained in this Memorandum of Incorporation.

- 4.3. The RCC shall have all the powers necessary to achieve the objects for which it was formed, as detailed in 5.2 hereof, and without limitation of such general powers it shall have the power to:
- 4.3.1. Appoint attorneys, agents, auditors, consultants, and other experts for agreed scope of works for special purposes and suspend or discharge any such persons and grant honoraria for such services rendered.
 - 4.3.2. Institute or defend on behalf of itself, the industry collectively or any of its members, legal action in any court or tribunal or legally recognised forum, on any aspect falling within the ambit of the objects of the RCC.
 - 4.3.3. Institute, conduct, defend, compound, or abandon any legal proceedings by or against the RCC, its officers, employees or members.
 - 4.3.4. Compound and allow payment arrangements for any debts or claims due to the RCC.
 - 4.3.5. Refer any claim or demand by or against the RCC to arbitration.
 - 4.3.6. Receive contributions and make and give receipts, releases, and other discharges for moneys payable to the RCC and for claims and demands of the RCC.
 - 4.3.7. Open a bank account and/or accounts in the name of the RCC as may be deemed requisite.

- 4.3.8. Draw, make, accept, endorse and execute bills of exchange, promissory notes, cheques and other negotiable instruments connected with the objects and business of the RCC.
 - 4.3.9. Invest and manage any moneys of the RCC not immediately required for the purposes of RCC operations or projects in such investments or securities, and on such terms and conditions, as the RCC may deem fit and necessary, and from time to time to vary or realise such investments;
 - 4.3.10. Act in any way, or do anything which could or might be done on behalf of the members of the RCC, excepting such matters as are reserved to be dealt with at a general meeting of the members of the RCC;
 - 4.3.11. Recommend to an AGM to make such amendments, variations, alterations, modifications, or additions to this MOI by special resolution as may be deemed necessary.
 - 4.3.12. Do all such things as may be considered incidental or conducive to the attainment of the objects of the RCC.
 - 4.3.13. Delegate any or all of the powers above to the executive or reverse such delegation.
- 4.4 Upon the winding-up or dissolution of the Company, its net assets must be distributed in the manner determined in accordance with section 1(4)(b) of Schedule 1 to the Act:
- 4.4.1 the entire net value of the Company shall be distributed to one or more non-profit companies, registered external non-profit companies carrying on activities within the Republic of South Africa, voluntary associations or non-

profit trusts having objects similar to its main object. No part of the income or property of the Company shall be distributed to its Members, and same shall be applied solely towards the pursuit of the Company's objects, provided that this Clause shall not be construed as prohibiting the payment of expenses to Directors and Officers as provided for herein; and

4.4.2 as determined:

- (a) in terms of the Company's Memorandum of Incorporation.
- (b) by its Members, if any, or its Directors, at or immediately before the time of its dissolution; or
- (c) by the Court, if the Memorandum of Incorporation, or Members or Directors fail to make such a determination.

5 APPOINTMENT AND COMPOSITION OF THE BOARD OF DIRECTORS AND OFFICERS

5.1 The Board of Directors of the Company shall consist of not less than 10 (ten) and not more than 20 (twenty) RCC Members.

5.2 An elected Member from each of the RWC's shall be represented on the Board as long as there is at least 1 director from each region as defined, and only a person with substantial HOA leadership experience may serve as a RWC nominated director

5.3 A representative of ARC shall serve on the Board *ex Officio*.

- 5.4 A representative of CAISA shall serve on the Board *ex Officio*.
- 5.5 All of the Directors, save for those mentioned in 5.3 and 5.4 shall be elected by an Ordinary Resolution of RCC Members from among the nominees nominated by the RWC members, or in the event that RCC Members are not natural persons, a representative of those Members (who shall be duly authorized by means of a valid resolution).
- 5.6 A meeting of the Directors shall have the power from time to time to co-opt any person who satisfies the requirements for election as a Director to fill any vacancy and serve as a director to fill a vacancy or as an additional director; during which period any person so appointed has all of the powers, functions and duties, and is subject to all of the liabilities, of any other Director of the Company; provided that the total number of directors shall not at any time exceed the maximum number fixed by or in accordance with this constitution, and the appointment of any director so appointed shall cease at the next Annual General Meeting, unless it is confirmed there at.
- 5.7 The continuing Directors may act, notwithstanding any vacancy in their number, but if and for so long as their number is reduced below the minimum number of directors required to act as such for the time being, the continuing Directors may act only to:-
- 5.7.1 increase the number of Directors to the required minimum; or
- 5.7.2 cause the convening of a General Meeting for that purpose, provided that if there is no Director able or willing to act, then any RCC Member may convene a general meeting for that purpose.
- 5.8 A Director shall be elected for a period of 3 (three) consecutive years ("**term**"), and shall, if re-elected as provided for in this Memorandum of Incorporation, serve no

more than 2 (two) consecutive terms. A minimum period of 2 (two) years shall elapse between the completion by a Director of the aforementioned 2 (two) consecutive terms and his/her re-election to the Board. The provisions of this Clause 5.8 shall apply to any such re-election.

5.9 There is no limit to the number of times a Director may be re-elected to the Board, provided always that the provisions of Clause 5.8 shall apply to each such re-election.

5.10 Each Director shall continue to hold office as such from the date of his/her election or appointment to office until the next AGM following the expiration of the term. Upon expiry of the term, such Director shall be deemed to have retired from office but shall be eligible for re-election to the Board at that AGM, subject always to the proviso in Clause 5.8 hereof.

5.11 A Director shall be deemed to have vacated his/her office as such upon:

5.11.1 having become disqualified to act as a director in terms of the provisions of section 69;

5.11.2 being removed from office as provided in section 71, subsequent to being given notice, signed by Members holding in the aggregate more than 50% of the total voting rights on a poll of all Members then entitled to vote on a poll at a General Meeting, of the termination of his appointment; and

5.11.3 in his capacity as Member of the Company, having become disentitled to exercise any voting rights in terms hereof.

5.11.4 ceasing to be a Member of the Company, or in the event that the relevant Member is not a natural person, a representative of that Member ceasing to be a Member of the Company,

- 5.12 The Company may not permit a person to serve as a director if that person is ineligible or disqualified in terms of section 69 of the Companies Act.
- 5.13 In addition to the grounds of ineligibility and disqualification of directors as contained in section 69, a director shall cease to be eligible to continue to act as a director if he absents himself from 3 consecutive meetings of the Board without the leave of the Board, and the Board resolves that his office shall be vacated, provided that this clause shall not apply to a director who is represented by an alternate director who does not so absent himself.
- 5.14 Section 70 of the Companies Act shall apply to any vacancy on the Board which may arise from time to time.
- 5.15 The Company shall file a notice within 10 (ten) business days after a person becomes ineligible or ceases to be a Director of the Company.
- 5.16 The Directors shall not be paid any remuneration for their services as such.
- 5.17 The Directors may be reimbursed in respect of any travelling, subsistence and other expenses properly incurred by them in the execution of their duties in or about the business of the Company and which are authorised or ratified by the Board of Directors of the Company.
- 5.18 Each Director may by notice to the Board: -
- 5.18.1 nominate anyone or more than one person in the alternative (including any of his co-directors or officers) to be his alternate subject to the approval of the other Directors of that alternate, which approval shall not be unreasonably withheld;
- 5.18.2 at any time terminate any such appointment.

- 5.19 The appointment of an alternate Director shall terminate when the Director to whom he is an alternate cease to be a Director, or terminates his appointment, or if the Directors reasonably withdraw their approval of his appointment.
- 5.20 An alternate Director shall only be entitled to attend or act or vote at any meeting of Directors if the Director to whom he is an alternate is not present, provided that: -
- 5.20.1 he may attend a meeting of Directors at which the Director to whom he is an alternate is present if the other Directors agree thereto.
- 5.20.2 any person attending any meeting of Directors as a Director in his own right and/or as an alternate for one or more Directors shall have one vote in respect of each Director whom he represents, including himself if he is a Director.
- 5.21 An alternate Director shall only be entitled to sign a resolution passed otherwise than at a meeting of Directors in terms of this constitution if the Director to whom he is an alternate, is absent, or incapacitated.
- 5.22 The alternate Director shall subject to the foregoing, generally exercise all the rights of the Director to whom he is an alternate in the absence or incapacity of that Director.
- 5.23 The alternate Director shall in all respects be subject to the terms and conditions existing with reference to the appointment, rights and duties and the holding of office of the Director to whom he is an alternate, but shall not have any claim of any nature whatever against the Company for any remuneration of any nature whatever.

6. AUTHORITY OF THE BOARD OF DIRECTORS

- 6.1 The business and affairs of the Company shall be managed under the direction of the Board of Directors, who shall have the authority to exercise all of the powers and perform all of the functions of the Company, except to the extent that the Act or this Memorandum of Incorporation provides otherwise.
- 6.2 Subject to any limitation imposed by this constitution, the management of the business and the control of the Company shall be vested in the Directors, who may exercise or delegate to any one or more persons all such powers and do or delegate to any one or more persons the doing of all such acts (including the right to sub-delegate) as may be exercised or done by the Company and are not in terms of the Act or by this constitution expressly directed or required to be exercised or done by a general meeting, subject, nevertheless, to that management and control:
- 6.2.1 not being inconsistent with; and
- 6.2.2 being in compliance with, any resolution passed by a general meeting. No such resolution passed by a general meeting shall invalidate any prior act of the Directors or any delegate.
- 6.3 Save as specifically provided herein, the Board of Directors shall at all times have the right to engage on behalf of the Company, the services of accountants, auditors, attorneys, advocates, architects, engineers, managing agents and any other professional firm or person or other employees whatsoever in their own discretion.
- 6.4 A Director shall not be liable (in the absence of any agreement to the contrary) to account to the Company for any profit or other benefit arising out of any contract entered into by the Company in which he/she is directly or indirectly interested, provided he/she has disclosed his/her interest upfront. A Disclosure Register shall

be kept and maintained, and Directors shall be required to declare any and all interests or potential conflicts of interest at every Directors' meeting.

6.5 Even if he has disclosed his interest (if it is material) in the relevant contract or arrangement, a Director shall not:

6.5.1 be counted in a quorum for the purpose of a meeting of Directors at which he is present to consider any matter relating to any existing or proposed contract or arrangement in which he is interested, and

6.5.2 be entitled to vote in regard to any matter relating to any existing or proposed contract or arrangement in which he is interested,

7. CHAIRPERSON AND VICE-CHAIRPERSON

7.1 The Board of Directors shall within 14 (fourteen) days after every AGM of the Members of the Company, appoint from their ranks a Chairperson and Vice-Chairperson, who shall hold their respective offices until the next AGM, providing that these offices shall ipso facto be vacated by a Director holding such office upon their ceasing to be Director for any reason.

7.2 Except as otherwise provided, the Chairperson shall preside at all meetings of the Board of Directors and in the event of their 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 that, a chairperson appointed by the meeting.

7.3 The Chairperson shall not have a casting vote in the event of a deadlock either with regard to Board resolutions or Members' resolutions.

8. APPOINTMENT OF OFFICERS AND COMMITTEES

- 8.1 The Board of Directors may appoint any Officers it considers necessary to better achieve the objects of the Company.
- 8.2 The Board of Directors has the authority to appoint Board Committees and to delegate to any such Committees any of the authority of the Board as set out in section 72(1) of the Companies Act. The Board may include in any such Committee persons who are not Directors or Members as set out in section 73(2)(a) of the Companies Act, except to the extent that this Memorandum of Incorporation, or a resolution establishing such a committee, provides otherwise. The Committee may include persons who are not Directors of the Company, provided that any such person must not be ineligible or disqualified to be a Director in terms of section 69.
- 8.3 The authority of a Committee appointed by the Company's Board of Directors, as set out in section 72(2)(b) or (c) of the Companies Act, is not limited or restricted by this Memorandum of Incorporation. The Committee may consult with or receive advice from any person and has the full authority of the Board in respect of a matter referred to it, as provided for within all such Committees' respective Terms of Reference.
- 8.4 The Directors may appoint from time to time one or more officers on such terms and conditions as may be determined from time to time by the Directors.

9. PROCEEDINGS OF DIRECTORS

- 9.1 The authority of the Board of Directors to consider a matter other than at a meeting as set out in section 74 of the Companies Act, is not limited or restricted by this Memorandum of Incorporation. The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 9.2 The right of the Company's Directors to requisition a meeting of the Board, as set out in section 73(1) of the Companies Act, may be exercised by any director at any time and the Board shall be obliged to call a meeting, should same be requested by at least 2 (two) of the directors.
- 9.3 Any resolution of the Board of Directors shall be carried on a simple majority of all votes cast.
- 9.4 The quorum for meetings of the Board shall be a majority of the directors, provided that under all circumstances no less than 50% (fifty percent) of the Directors shall be present thereat and further provided that: -
- 9.4.1 if a quorum is not present within thirty minutes after the time appointed for the commencement of any meeting of the Board, that meeting shall automatically be postponed without motion or vote to a date within 14 (fourteen) days as agreed between the Directors, at the same time and place. The postponed meeting may only deal with the matters that were on the agenda of the meeting that was postponed.
- 9.4.2 if at any such postponed meeting a quorum is not present within thirty minutes after the time appointed for the commencement of that meeting then, the Directors present shall be deemed to constitute a quorum and shall be sufficient to vote on any resolution which is tabled at that meeting, provided that such resolution shall be passed only if the majority of the Directors present vote in favour thereof;

9.4.3 if a meeting of the Board is postponed or adjourned, whether in terms hereof or otherwise, the Company must, within forty eight hours thereafter, send notice of the postponement or adjournment to all Directors who are entitled to receive notice of the meeting (excluding those of the Directors who have agreed not to receive such notice of postponement or adjournment or agreed that the meeting may proceed without them) and that notice must contain the time and date of, and the location for, the continuation or resumption of the meeting and the business to be dealt with thereat. If written notice is not so given, the postponed or adjourned meeting may not be held or resumed and the business that would have been dealt with thereat can be dealt with at a new meeting of which fresh notice has been given in accordance with this Memorandum of Incorporation.

9.5 If each Director of the Company:

9.5.1 acknowledges actual receipt of the notice and agrees that the meeting should proceed; or

9.5.2 is present at a meeting; or

9.5.3 waives notice of the meeting,

the meeting may proceed even if the Company failed to give the required notice of that meeting, or there was a defect in the giving of the notice.

9.6 The Board:

9.6.1 may provide for a meeting of the Board to be conducted in whole or in part by Electronic Communication; and

- 9.6.2 shall always make provision for any Director to participate by Electronic Communication in every meeting of the Board that is held in person at any place other than the Registered Office of the Company, and any Electronic Communication facility so employed must ordinarily enable all persons participating in that meeting to at least speak and hear each other at approximately the same time, and to participate reasonably effectively in the meeting, with or without an intermediary. The authority of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.
- 9.7 The Company shall keep minutes of the meetings of the Board, and any of its Committees, and include in those minutes: -
- 9.7.1 any Declaration or Disclosure of Interests given by notice or made by a Director, as required by section 75 of the Companies Act; and
- 9.7.2 every Resolution adopted by the Board of Directors.
- 9.8 Resolutions adopted by the Board shall be:
- 9.8.1 dated and sequentially numbered; and
- 9.8.2 effective as of the date of the resolution unless the resolution states otherwise.
- 9.9 Any Minutes of a meeting, or a resolution, signed by the Chairperson of the meeting, or by the Chairperson of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

10. WRITTEN RESOLUTIONS BY DIRECTORS

- 10.1 A decision that could be voted on at a meeting of the Board may instead be adopted by a written resolution (or by way of round robin electronic communication) that has been submitted to all of the Directors and signed or approved by at least that number of the Directors having a majority of the voting rights that could be exercised upon that resolution if it were considered by a meeting of the Board and those signatories constitute a quorum referred to in clause 9.4.
- 10.2 Any such resolution shall be as valid and effective as if it had been adopted by a duly convened and constituted meeting of Directors.
- 10.3 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been passed on the date and at the time at which it was signed by or on behalf of the Director who signed it last, or who approved it last if by round robin electronic communication.
- 10.4 The resolution may consist of one or more counterpart documents, each signed by one or more Directors.

11 INDEMNIFICATION AND INSURANCE FOR DIRECTORS

- 11.1 For the purposes of this Clause 11, a Director includes:
- 11.1.1 a former Director.

- 11.1.2 a Prescribed Officer; and
 - 11.1.3 a person who is a Member of a Committee of the Board, irrespective of whether or not the person is also a Member of the Board.
- 11.2 The Board may, on behalf of the Company, as contemplated in sections 78(4), 78(5) and 78(7):
- 11.2.1 advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company; and
 - 11.2.2 directly or indirectly indemnify a Director for expenses contemplated in clause 11.2.1, irrespective of whether or not it has advanced those expenses, if the proceedings:
 - 11.2.2.1 are abandoned or exculpate that Director; or
 - 11.2.2.2 arise in respect of any liability for which the Company may indemnify the Director.
 - 11.2.3 indemnify a Director against any liability arising from the conduct of that Director, other than a liability set out in section 78(6) of the Companies Act;
 - 11.2.4 purchase insurance to protect:
 - 11.2.4.1 a Director against any liability or expense for which the Company is permitted to indemnify the Director in accordance with clause 11.2.3.
 - 11.2.4.2 the Company against any contingency, including:

11.2.4.2.1 any expenses that the Company is permitted to advance in accordance with clause 11.2.1; or

11.2.4.2.2 any expense for which the Company is permitted to indemnify a Director in accordance with this clause 11; or

11.2.4.2.3 any liability for which the Company is permitted to indemnify a Director in accordance with this clause 11,

and the authority of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

11.3 The Company shall and is hereby obliged to indemnify each Director against (and pay to each Director, on demand by that Director, the amount of any loss, liability, damage, cost (including all legal costs reasonably incurred by the Director in dealing with or defending any claim) or expense ("Loss") which that Director may suffer as a result of any act or omission of that Director in his capacity as a Director, provided that this indemnity shall not extend to any Loss:

11.3.1 against which the Company is not permitted to indemnify a Director by section 78(6) of the Companies Act; or

11.3.2 arising from any gross negligence or recklessness on the part of that Director; or

11.3.3 any loss of or damage to reputation; or

11.3.4 in the event and to the extent that the Director has recovered or is entitled and able to recover the amount of that Loss in terms of any insurance policy (whether taken out or paid for by the Company or otherwise);

and Directors shall not be entitled to recover the Losses referred to in this Clause 11 from the Company. All losses other than those referred to in this Clause 11 are referred to herein as "Indemnified Losses".

11.4 Each Director's right to be indemnified by the Company in terms of this indemnity shall exist automatically upon his/her becoming a Director and shall endure even after he/she ceases to be a Director until he/she can no longer suffer or incur any Indemnified Loss;

11.5 If any claim is made against a Director in respect of any Indemnified Loss, then:

11.5.1 the Director shall not admit any liability in respect thereof and the Director shall notify the Company of any such claim within a reasonable time after the Director becomes aware of such claim, in order to enable the Company to contest such claim. Notwithstanding the foregoing provisions of this clause 11, the Company's liability in terms of this indemnity shall not be affected by any failure of the Director to comply with this clause 11, save in the event and to the extent that the Company proves that such failure has resulted in the Indemnified Loss being greater than it would have been had the Director complied with this clause 11;

11.5.2 the Company shall, at its own expense and with the assistance of its own legal advisers, be entitled to contest any such claim in the name of the Director until finally determined by the highest court to which appeal may be made (or which may review any decision or judgment made or given in

relation thereto) or to settle any such claim and shall be entitled to control the proceedings in regard thereto, provided that:

11.5.2.1 the Director shall (at the expense of the Company and, if the Director so requires, with the involvement of the Director's own legal advisers) render to the Company such assistance as the Company may reasonably require of the Director in order to contest such claim;

11.5.2.2 the Company shall regularly, and in any event on demand by the Director, inform the Director fully of the status of the contested claim and furnish the Director with all documents and information relating thereto which may reasonably be requested by the Director;

11.5.2.3 the Company shall consult with the Director prior to taking any major steps in relation to or settling such contested claim and, in particular, before making or agreeing to any announcement or other publicity in relation to such claim;

11.5.2.4 to the extent that any Loss consists of or arises from a claim or potential claim that the Company might otherwise have had against the Director, then the effect of this indemnity shall be to prevent the Company from making such claim against the Director, who shall be immune to such claim, and such claim shall therefore be deemed not to arise.

11.6 If this Clause 11 is amended at any time, no such amendment shall detract from the rights of the Directors in terms of this Clause in respect of any period prior to the date on which the resolution effecting such amendment is adopted by the Members;

11.7 All provisions of this Clause 11 are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision of this Clause 11 which is or becomes unenforceable, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions of this Clause 11 shall remain of full force and effect.

11.8 This indemnity shall not detract from any separate indemnity that the Company may sign in favour of the Directors.

12. GENERAL MEETINGS OF THE MEMBERS OF THE COMPANY

12.1 The Company shall not be required to hold any meetings of Members other than those required by the Act, provided that the Company shall hold Annual General Meetings and such meetings shall be held: -

12.1.1 in respect of the first such meeting, within a period of 15 (fifteen) months after the date of the incorporation of the Company; and

12.1.2 thereafter within no more than 6 (six) months after the end of each ensuing financial year.

12.2 The Company shall hold a Members' meeting in the circumstances contemplated in section 61(2) of the Companies Act:

12.2.1 at any time that the Board is required by the Companies Act or this Memorandum of Incorporation to refer a matter to Members for a decision; and

- 12.2.2 whenever required in terms of section 70(3) of the Companies Act to fill a vacancy on the Board; and
 - 12.2.3 under any other circumstances as may be contemplated in this Memorandum of Incorporation.
- 12.3 The Board of Directors (or the Chairperson) shall convene a Members' General Meeting if one or more written and signed demands for such a meeting are delivered to the Company, and
- 12.3.1 each such demand describes the specific purpose for which the meeting is proposed; and
 - 12.3.2 in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earlier time specified in any of those demands, of at least 10 (ten) percent of eligible voting rights in relation to the matter proposed to be considered at the meeting; or
 - 12.3.3 in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earlier time specified in any of those demands, of less than 10 (ten) percent of eligible voting rights in relation to the matter proposed to be considered at the meeting, and the Directors deem the specific purpose for which the meeting is proposed significant enough to warrant a meeting to be convened, or for the issue to be placed on the agenda of the next members' meeting.
- 12.4 The Board shall determine the location for any Members' Meeting of the Company and the Company may hold any such meeting in the Republic or any such other

place, and the authority of the Board, as contemplated in section 61(9), is not limited or restricted by this Memorandum of Incorporation.

13. NOTICES

- 13.1 Any notice that is required to be given to Members or Directors may be given in any manner prescribed in the Table CR3 to the Regulations and that notice shall be deemed to have been delivered as provided for in the Regulations as a result of the relevant method of delivery.
- 13.2 Each Member and Director shall notify the Company in writing of a postal address, electronic mailbox, or other electronic communication address, which address shall be their registered address for the purposes of receiving written notices from the Company and if they have not provided such an address, they shall be deemed to have waived their right to be so served with notices;

14. PROXY REPRESENTATION

- 14.1 A Member may, at any time by written proxy appointment, appoint any person as a proxy to: -
- 14.1.1 participate in, and speak and vote at a Members Meeting on behalf of the Member; or
- 14.1.2 give or withhold written consent on behalf of the Member to a decision contemplated in these clauses,

and any such proxy appointment (and any invitation by the Company to appoint a proxy and any form supplied by the Company for the appointment of a proxy) shall be governed by section 58 and this Clause 14.

- 14.2 The Board may determine a standard form of proxy appointment and make it available to Members on request.
- 14.3 A Member may not appoint more than one person concurrently as proxies and may not appoint more than one proxy to exercise voting rights attached to different rights and interests of the Member.
- 14.4 A proxy may not delegate the proxy's authority to act on behalf of the Member to another person, unless the right to delegate is specifically contained in the proxy appointment and the delegation occurs by way of a further proxy appointment which itself complies with the requirements and this Memorandum of Incorporation for a proxy appointment.
- 14.5 A proxy shall, as contemplated in section 58(7), be entitled in the proxy's own discretion, to exercise, or abstain from exercising, any voting right of the Member, provided that if the instrument appointing the proxy specifically provides otherwise, then the specific provisions of the proxy appointment shall prevail.

15. RECORD DATES

- 15.1 Subject to Clause 15.2, the Board may, in accordance with section 59 of the Companies Act and the Regulations to of the Companies Act, determine and publish a Record Date for the purposes of determining which Members are entitled to:

- 15.1.1 receive notice of a Members' Meeting;

15.1.2 participate in and vote at a Members' Meeting;

15.1.3 decide any matter by written consent or by Electronic Communication; or

15.1.4 be awarded or exercise any other rights.

15.2 If the Board does not determine a Record Date for any action or event, as contemplated in this Clause 15, the Record Date shall be as determined in accordance with section 59(3) of the Companies Act:

15.2.1 in the case of a meeting, the latest date by which the Company is required to give Members notice of that meeting; or

15.2.2 the date of the action or event, in any other case.

16. NOTICE OF MEMBERS' MEETINGS

16.1 The Company must deliver notice of each Members' Meeting to all Members as of the Record Date for receiving notice of that meeting at least 15 (Fifteen) Business Days (or such shorter period as may be agreed to in writing by all of the Persons who are Members at the time of that meeting) before that Members' Meeting is to begin.

16.2 The notice of a Members' Meeting shall be in writing and shall include the items set out in section 62(3).

16.3 The notice of a Members' Meeting must be delivered in accordance with the provisions of Clause 15.

16.4 The notice shall be exclusive of the day on which it is given, and shall specify the following:-

16.4.1 the venue, the date, and the time of the meeting;

16.4.2 in the case of special business, in addition to any other requirements contained in this Memorandum of Incorporation, the general nature of the business; and

16.4.3 in the case of a proposed Special Resolution, the terms, effects, and reasons therefore.

17. CONDUCT OF MEETINGS

17.1 The Company:

17.1.1 may, as contemplated in section 63 of the Companies Act, provide for a Members Meeting to be conducted in whole or in part by Electronic Communication; and

17.1.2 shall always make provision for any Member or proxy for a Member, to participate by Electronic Communication in every Members' Meeting that is being held in person at any place other than the Registered Office of the Company,

and any Electronic Communication facility so employed must ordinarily enable all persons participating in the meeting to at least speak and hear each other at approximately the same time and to participate reasonably effectively in the

meeting, with or without an intermediary. The authority of the Company shall be limited and restricted accordingly.

- 17.2 The responsibility for, and any expense of, gaining access to the medium or means of Electronic Communication employed for any Members' Meeting shall be borne by the Member or proxy. If a provision has been made for a Members' Meeting to be conducted by Electronic Communication or for participation in a Members' Meeting by Electronic Communication and the medium or means of such Electronic Communication is available and functioning, then the Members' Meeting shall be entitled to proceed even if a Member or proxy is not able to gain access to the medium or means of Electronic Communication so employed.
- 17.3 The Company shall ensure that any notice of any meeting of Members at which it will be possible for Members to participate by way of Electronic Communication, shall inform Members of that form of participation and shall provide any necessary information to enable Members or their proxies to access the available medium or means of Electronic Communication.
- 17.4 A resolution passed at any meeting that employs Electronic Communication shall, notwithstanding that the Members are not present together in one place at the time of the meeting, be deemed to have been passed at a meeting duly called and constituted on the day on which, and at the time at which, the meeting was so held. For the avoidance of doubt, it is recorded that all of the provisions of Clauses 18 to 20 shall apply to these meetings.
- 17.5 At a meeting of Members, voting shall be conducted by way of a poll, or a show of hands. The voting shall be conducted in such manner as the Chairperson of the meeting directs.

18. MEMBERS' MEETING QUORUM AND ADJOURNMENT

- 18.1 The quorum requirements for meetings of Members shall, subject to Clauses 18.2 and 18.6, be that such a meeting shall not begin unless sufficient persons are present at such meeting to exercise, in aggregate, at least 10 (ten) percent of the voting rights eligible to vote in respect of at least one matter to be decided at the meeting.
- 18.2 Notwithstanding the provisions of section 64(4) and clause 18.1, if, within 30 (thirty) minutes after the appointed time for a meeting:
- 18.2.1 the quorum requirements for a meeting to begin have not been satisfied, the meeting shall automatically be postponed without motion or vote to a date within 60 (sixty) days at a time and place to be determined by the Directors;
- 18.2.2 if the quorum requirements for consideration of a particular matter to begin have not been satisfied, then:
- 18.2.2.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
- 18.2.2.2 if there is no other business on the agenda of the meeting, the meeting is adjourned, without motion or vote, to a date within 60 (sixty) days at a time and place to be determined by the Directors.
- 18.3 If at the meeting adjourned under clause 18.2 a quorum is not present within 30 (thirty) minutes after the time appointed for the meeting, the Members present in person or by representative, agent or proxy at that adjourned meeting shall constitute a quorum.

- 18.4 The adjourned or postponed meeting may only deal with the matters that were on the agenda of the meeting that was adjourned or postponed.
- 18.5 The chairperson of the meeting shall be entitled to extend the 30 (thirty) minute limit referred to in Clause 18.3 in the circumstances contemplated in section 64(5).
- 18.6 If, within 30 (thirty) minutes after the time appointed in terms of this Clause 18 for an adjourned meeting to resume, or for a postponed meeting to begin, the quorum requirements have not been satisfied, the Members present in person or by proxy will be deemed to constitute a quorum.
- 18.7 After a quorum has been established for such an adjourned meeting, or for a matter to be considered at such an adjourned meeting, the meeting may continue, or the matter may be considered, so long as at least one Member with Voting Rights entitled to be exercised at the meeting, or on that matter, is present at the Meeting.
- 18.8 A Members' Meeting, or the consideration of any matter being debated at a Members' Meeting, may be adjourned as contemplated in sections 64(10), 64(11) and 64(12), it being recorded that the periods of adjournment set out in section 64(12) shall apply without variation.
- 18.9 The Board may, at any time after notice of a Members Meeting has been given but prior to the commencement of that meeting, postpone that meeting to such later date as may be determined by the Board at the time of determining to postpone the meeting, or may be postponed to an unspecified date to be decided by the Board at a later stage, provided that the Board may not so postpone the date of any such meeting beyond that date (if any) by which that meeting is required by the Act or this Memorandum of Incorporation to be held.

18.10 If a Members' Meeting is postponed or adjourned, the Company must, within forty eight hours thereafter, send notice to all Members who were entitled to receive notice of the meeting of the postponement or adjournment and that notice must contain the time and date of, and the location for, the continuation or resumption of the meeting, the business to be dealt with thereat and any other information which the Board may decide to include therein. If written notice is not so given, the postponed or adjourned meeting may not be held or resumed and the business that would have been dealt with thereat can be dealt with at a new meeting of which fresh notice has been given in accordance with this Memorandum of Incorporation.

18.11 The Chairperson of the Board or, failing him, the deputy Chairperson (or if more than one of them is present and willing to act, the most senior of them) shall preside as the Chairperson of each Members' Meeting, provided that, if no Chairperson or deputy Chairperson is present and willing to act, the Members present shall elect one of the Directors or, if no Director is present and willing to act, a Member, to be the chairperson of that Members' Meeting.

18.12 The Chairperson of a meeting referred to in Clause 18.11 shall, subject to the Act and this Memorandum of Incorporation and any Rules, determine the procedure to be followed at that meeting.

19 MEMBERS' RESOLUTIONS

19.1 At any meeting of Members, any person who is present at the meeting, whether as a Member or as a proxy for a Member, shall be entitled to exercise the number of voting rights held by such Member, which voting rights shall be determined in accordance with the rights, limitations and other terms of his or her proprietary rights, as set out in this Memorandum of Incorporation.

19.2 In order for:

19.2.1 an ordinary resolution to be approved, it must be supported by at least a simple majority of the voting rights exercised on the ordinary resolution, as contemplated in section 65(7); or

19.2.2 a special resolution to be approved, it must be supported by at least 75% (seventy five percent) of the voting rights exercised on the special resolution, as provided in section 65(9) of the Companies Act,

at a quorate meeting of Members which is quorate in relation to that resolution, provided that this Clause 19 shall not detract from the Members' ability to adopt resolutions by written vote as referred to in Clause 20.

19.3 If any Member abstains from voting in respect of any resolution, that Member shall, for the purposes of determining the number of votes exercised in respect of that resolution, be deemed not to have exercised a vote in respect of that resolution.

19.4 Except for those matters which require the approval or authority of a special resolution in terms of section 65(11) of the Companies Act any other section or any provision of the Regulations or this Memorandum of Incorporation, no other matters which the Company may undertake require the approval or authority of a special resolution of the Members.

20. WRITTEN RESOLUTIONS BY MEMBERS

20.1 A resolution that could be voted on at a Members' Meeting may instead be adopted by written vote of the Members, as contemplated in section 60, if it is supported by persons entitled to exercise sufficient voting rights for it to have been adopted as an

Ordinary or Special Resolution, as the case may be, at a properly constituted Members' Meeting.

20.2 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been adopted on the date on which the Company received the written vote of the Member or the proxy of the Member whose vote resulted in the resolution by being supported by sufficient votes for its adoption.

21. AGENDA OF MEETINGS

21.1 In addition to any other matters required by the Act or this Memorandum of Incorporation or the Company's Constitution or Internal Regulations to be dealt with at an AGM of the Members, the following matters shall be dealt with at every AGM:-

21.1.1 the consideration of the Chairperson's Report;

21.1.2 the election of Members of the Board of Directors;

21.1.3 the approval of the Minutes of the prior year's AGM

21.1.4 the presentation of the approved budget for the ensuing year

21.1.5 the consideration of any other matters concerning the affairs of the RCC of which proper and due notice has been given, including any resolutions proposed for adoption by such meeting and voting upon any such resolutions;

21.1.6 the consideration of the books and records of accounts and Annual Financial Statements and Reports for the preceding financial year; and

21.1.7 the consideration of the Auditors' Report, their Terms of Engagement and appointment for the next financial year, as well as approval of their remuneration.

22. VOTING AT GENERAL MEETINGS OF MEMBERS

22.1 Every Member, in person or by proxy and entitled to vote, shall have one vote:

22.2 Save as expressly provided for herein, no person other than a RCC Member, duly registered, and who shall have paid every sum which may be due and payable to the Company in respect of, or arising out of their membership and who is not under suspension, shall be entitled to be present or to vote on any question, either personally or by proxy, at any General Meeting.

22.3 Unless the Chairperson of the meeting otherwise directs, all voting shall be on a poll.

22.4 Any ordinary resolution shall be carried on a simple majority of all votes cast. In the case of an equality of votes, the resolution shall be deemed to have been defeated.

22.5 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 in respect of the result of any voting at the meeting, whether by show of hands or otherwise, or to the propriety or validity of the procedure of such meeting, the Chairperson's declaration shall be deemed to be a true and correct statement of the voting result, 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 a motion, shall be conclusive evidence of the votes so recorded.

23. FINANCIAL STATEMENTS AND ACCESS TO COMPANY INFORMATION

23.1 The Company shall prepare Annual Financial Statements and Reports in accordance with the Act and the Regulations and shall have those Annual Financial Statements audited.

23.2 A copy of the audited Annual Financial Statements and Reports of the Company shall be delivered to all Members in accordance with Clauses 13 and 16 as soon as possible after those Annual Financial Statements and Reports have been approved by the Board.

23.3 Except as set out in this Clause 23, no information rights are established by this Memorandum of Incorporation in favour of a person who holds or has a beneficial interest in any of the Company's rights in addition to those rights created by section 23 of the Companies Act.

24. MEMBERSHIP DUES PAYABLE BY MEMBERS

24.1 The Company through its Directors shall determine the Membership dues payable by RCC Members for the purpose of meeting all the expenses, which the Company has incurred, or to which the Directors reasonably anticipate the Company will be put in the attainment of its objects or the pursuit of its business and an amount for a Legal Reserve Fund. The annual amount levied from each Member will be determined by the Board and advised to members as part of the Budget approval at the AGM.

- 24.2 The Directors shall, prior to the end of each financial year, or so soon thereafter as is reasonably possible, prepare and serve upon every RCC Member an estimate in reasonable detail of the amount which shall be required by the Company to meet the expenses during the following financial year, and shall specify separately such estimated deficiency, if any, as a result from the preceding year. The Directors may include in such estimate an amount to be held in reserve to meet anticipated future legal expenditure of an annual nature.
- 24.3 Each notice to each Member shall specify the Membership dues payable by that Member towards such expenses.
- 24.4 Membership dues shall be payable annually in advance each and every financial year.

25. AMENDMENT OF THE MEMORANDUM OF INCORPORATION

- 25.1 This Memorandum of Incorporation may only be altered or amended: -
- 25.1.1 by means of a special resolution of the Members passed in accordance with section 16(1)(c) of the Companies Act where: -
- 25.1.1.1 it is proposed by the Board of Directors of the Company, or by Members entitled to exercise at least 10% (ten percent) of the voting rights that may be exercised on such a resolution; and
- 25.1.1.2 the resolution is adopted at a Members' meeting in accordance with section 60 of the Companies Act; or

- 25.1.2 in compliance with a Court order in terms of section 16(1)(a) of the Companies Act or on application to the Companies Commission or Tribunal in accordance with section 17; or
- 25.2 This Memorandum of Incorporation is not capable of amendment by any other method, save as provided for in Clause 25.1 above. Accordingly, the provisions of section 16(1)(b) shall not apply, nor shall any other alterable provision that allows for a method for the alteration or amendment of the Memorandum of Incorporation other than the method and approvals contemplated in this Clause 25.
- 25.3 The Board of Directors must publish a notice of any alteration made to this Memorandum of Incorporation in order to alter this Memorandum of Incorporation in accordance with section 17(1) by delivering notice thereof to the Members in accordance with Clause 13.

26 DATE OF COMMENCEMENT

This Memorandum of Incorporation shall become effective on the date on which the Company comes into existence.

This amended MOI was adopted at the Annual General Meeting on 12 November 2020