

# **GREATER OVERBERG FIRE PROTECTION Association**

## **Constitution**

**Adopted by the members on  
5 August 2020**

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**1. INTERPRETATION**

- 1.1 In this Constitution, unless the context clearly indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings —
  - 1.1.1 **"Accounting Officer"** means an "accounting officer" as defined in the NPO Act;
  - 1.1.2 **"Act"** means the National Veld and Forest Fire Act No.101 of 1998;
  - 1.1.3 **"Adoption Date"** means the date upon which this Constitution is adopted by the Members;
  - 1.1.4 **"Association"** means the independent voluntary Association as described in this Constitution;
  - 1.1.5 **"Board"** means the board of the Association as contemplated in clause 18;
  - 1.1.6 **"CFO"** means Chief Fire Officer as defined in the Fire Brigade Services Act No. 99 of 1987;

- 1.1.7 "**Chairperson**" means the chairperson of the Association and/or Board as contemplated in clause 20;
- 1.1.8 "**Commissioner**" means the Commissioner for the South African Revenue Service;
- 1.1.9 "**Constitution**" means the constitution contained in this document, including all annexures (if any) hereto;
- 1.1.10 "**Board Members**" mean the members of the Board from time to time;
- 1.1.11 "**Domain**" means the domain of the Association which is the Overberg District Municipal boundaries;
- 1.1.12 "**Electronic Communication**" has the meaning set out in section 1 of the Electronic Communications and Transactions Act, No 25 of 2002;
- 1.1.13 "**FMU**" means a fire management unit of the Association;
- 1.1.14 "**General Manager**" means the general manager of the Association;
- 1.1.15 "**Income Tax Act**" means the Income Tax Act, No 58 of 1962;
- 1.1.16 "**Members**" means the Members of the Association from time to time;
- 1.1.17 "**Non-Profit Organisation**" means a Non-Profit organisation as defined in the NPO Act;
- 1.1.18 "**NPO Act**" means the Non-Profit Organisations Act, No 71 of 1997;
- 1.1.19 "**NPO Director**" means the Director of Non-Profit Organisations, designated in terms of section 8 of the NPO Act;
- 1.1.20 "**PBO**" means a public benefit organisation as defined in terms of the Income Tax Act;
- 1.1.21 "**Previous Constitution**" means the previous Constitution of the Association adopted on [INSERT DATE];
- 1.1.22 "**Register**" means the register of Members referred to in clause 10.4, in whatever form may be suitable from time to time;
- 1.1.23 "**South Africa**" means the Republic of South Africa; and
- 1.1.24 "**Treasurer**" means the treasurer of the Association as contemplated in clause 20.5.
- 1.2 In this Constitution –
- 1.2.1 clause headings and the heading of the Constitution are for convenience only and are not to be used in its interpretation;
- 1.2.2 an expression which denotes –

- 1.2.2.1 any gender includes the other genders;
- 1.2.2.2 a natural person includes a juristic person and *vice versa*;
- 1.2.2.3 the singular includes the plural and *vice versa*;
- 1.2.2.4 a Member includes a reference to that Member's successors in title and assigns allowed at law; and
- 1.2.2.5 a reference to a consecutive series of two or more clauses is deemed to be inclusive of both the first and last-mentioned clauses.
  
- 1.3 Any reference in this Constitution to –
  - 1.3.1 "**business hours**" shall be construed as being the hours between 08h00 and 16h30 on any business day. Any reference to time shall be based upon South African Standard Time;
  - 1.3.2 "**days**" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;
  - 1.3.3 "**laws**" means all Constitutions; statutes; regulations; by-laws; codes; ordinances; decrees; rules; judicial, arbitral, administrative, ministerial, departmental or regulatory judgements, orders, decisions, rulings, or awards; policies; voluntary restraints; guidelines; directives; compliance notices; abatement notices; agreements with, requirements of, or instructions by any governmental body; and the common law, and "**law**" shall have a similar meaning; and
  - 1.3.4 "**person**" means any person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality.
  
- 1.4 The words "**include**" and "**including**" mean "include without limitation" and "including without limitation". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
  
- 1.5 Any substantive provision, conferring rights or imposing obligations on any person and appearing in any of the definitions in this clause 0 or elsewhere in this Constitution, shall be given effect to as if it were a substantive provision in the body of the Constitution.
  
- 1.6 Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Constitution.

- 1.7 Unless otherwise provided, defined terms appearing in this Constitution in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 1.8 A reference to any statutory enactment shall be construed as a reference to that enactment as at the date of the last signature to this Constitution and as amended or substituted from time to time.
- 1.9 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- 1.10 If the due date for performance of any obligation in terms of this Constitution is a day which is not a business day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding business day.
- 1.11 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.12 In this Constitution the words "**clause**" or "**clauses**" and "**annexure**" or "**annexures**" refer to clauses of and annexures to this Constitution.

## 2 **NAME OF THE ASSOCIATION**

- 2.1 The name of the Association is the **Greater Overberg Fire Protection Association**
- 2.2 The shortened name of the Association is "goFPA".

## 3 **LEGAL STATUS**

- 3.1 The Association shall exist in its own right, as distinct and separate legal entity separately from its Members and will continue to exist even if Membership or office bearers are amended (perpetual succession).
- 3.2 The Association will be able to own property, capital or other assets, and will be able to sue and be sued in its own name, with the capacity to acquire rights and obligations.

## 4 **AREA OF THE ASSOCIATION**

- 4.1 The general boundaries of the Association which constitute the Domain are described in Annexure B.
- 4.2 The land use in the Domain includes rural agricultural properties (commercialised and non-commercialised); rural, communally owned properties; large mountainous conservation areas managed by conservation authorities and by private land owners, urban areas managed by local authorities, and other state land managed by various government departments.

- 4.3 The Association is divided into Fire Management Units, as decided by the Association from time to time, according to geographical areas, which at the Adoption Date comprise 53 Fire Management Units. There is no need to amend this Constitution as the number of Fire Management Units increase or decrease.

## **5 THE ADDRESS OF THE ASSOCIATION**

- 5.1 The postal address of the Association is-

Greater Overberg Fire Protection Association  
Private Bag X22  
Bredasdorp  
7280

- 5.2 The physical address of the Association is-

Fire Station  
Long Street  
Bredasdorp  
7280

- 5.3 The email address of the Association is [info@overbergfpa.co.za](mailto:info@overbergfpa.co.za).

## **6 APPLICATION OF THE ACT TO THIS CONSTITUTION**

This Constitution must adhere to Chapter 2 of the Act and the regulations promulgated thereto.

## **7 THE OBJECTS AND POWERS OF THE ASSOCIATION**

- 7.1 The primary object of the Association is to implement integrated fire management principles and activities in order to predict, prevent, manage and extinguish veldfires. For the purpose of clarification, these integrated fire management principles and activities include but are not limited to -

- 7.1.1 assisting in the co-ordination of firefighting resources;
- 7.1.2 applying for financial assistance in order to implement veldfire related projects;
- 7.1.3 providing overall assistance in preventing and managing veldfires through the dissemination of information, allocation of resources and the implementation of integrated management plans;
- 7.1.4 assist Members to comply with the Act, the regulations made in terms of the Act, the rules of the FPA, made in terms of the Act, and this Constitution;
- 7.1.5 improve the knowledge-base for the implementation of integrated fire management strategies;
- 7.1.6 improve awareness on integrated fire management and prevention; and

7.1.7 reduce the negative impact of veldfires by devising integrated fire management plans.

## **8 DUTIES AND FUNCTIONS OF THE ASSOCIATION**

8.1 The duties and functions of the Association are to –

8.1.1 develop and implement a veldfire management strategy for the area;

8.1.2 make rules which bind its Members in relation to its activities;

8.1.3 regularly communicate the fire danger rating referred to in sections 9 and 10 of the Act to its Members;

8.1.4 organise and train its Members and their employees in firefighting, fire management and fire prevention;

8.1.5 inform its Members of equipment and technology available for preventing and fighting veldfires;

8.1.6 annually provide the Minister with statistics about veldfires within the Domain;

8.1.7 provide any information requested by the Minister in order to prepare or maintain the fire danger rating system;

8.1.8 where required, assist Members to prepare applications for exemption from the duty to prepare and maintain fire breaks in terms of Section 15 of the Act;

8.1.9 exercise the powers and carry out duties passed on to it by the Minister;

8.1.10 appoint personnel to ensure compliance to the Act and to improve management capacity within the Association;

8.1.11 provide firefighting resources to Members at a fee, when available;

8.1.12 where possible, provide technical support and information to Members, including in instances where insurance claims are being investigated; and

8.1.13 conclude agreements with adjoining Fire Protection Associations relating to matters of common interest and collaboration, where appropriate.

8.2 Funds and activities of the Association will solely be applied towards the achievement of the Association's objects and the exercising of the Association's duties as contemplated in clause 7.

## **9 MEMBERSHIP**

9.1 All land owners, as defined by the Act, and within the Domain, may become Members.

- 9.2 All land owners, lessees, state entities, municipalities, or communities, will be considered for membership provided that they have –
- 9.2.1 applied for Membership and completed and submitted Membership application forms, and
  - 9.2.2 paid their Membership fees as set out in clause 14 below.
- 9.3 If any Member of the Board objects to any applicant's admission as a Member, or any Member's continued Membership, the Board must, within 14 days –
- 9.3.1 give the applicant, or Member, written reasons for the objection,
  - 9.3.2 consider application at the next Board meeting, and
  - 9.3.3 notify the applicant or Member of the date, time and place of the meeting.
- 9.4 The applicant or Member has the right to –
- 9.4.1 speak at the meeting and argue for admission or continued Membership, and
  - 9.4.2 make a complaint to the Minister if not satisfied with the Board's decision.

## **10 MEMBERSHIP DATABASE AND COMMUNICATION**

- 10.1 Every new Member must provide the Association with a fully completed and signed application form in order to ensure that the correct information is available for the database.
- 10.2 Every Member is responsible for informing the Association of any changes to the information submitted on his/her/its application form.
- 10.3 The Association is not responsible should any Member's given information be incorrect at any time.
- 10.4 The General Manager or any other designated employee must keep all the details referred to in the subclauses above, and other relevant information, in the Register.

## **11 RESPONSIBILITIES OF MEMBERS**

- 11.1 Members are responsible to –
- 11.1.1 adhere to this Constitution;
  - 11.1.2 follow the rules of the Association;
  - 11.1.3 follow the rules of the FMU in which their property is located, if applicable;
  - 11.1.4 adhere to guidelines and management practices that may be determined by the Association;



- 11.1.5 commit themselves to the implementation of a fire management plan where such plans exist;
- 11.1.6 pay any fees and charges as set by the Association from time to time;
- 11.1.7 actively involve and participate in activities and capacity building programmes offered by the Association; and
- 11.1.8 comply with the requirements of the Act, particularly in relation to -
  - 11.1.8.1 the establishment of fire breaks;
  - 11.1.8.2 the reduction of fuel loads;
  - 11.1.8.3 the retention of firefighting equipment and staff; and,
  - 11.1.8.4 the prevention of veldfires starting on, spreading to, or spreading from their land onto adjoining land.

## **12 LIABILITY OF MEMBERS**

- 12.1 Members are not individually liable for any debts, liabilities or duties owed by the Association.
- 12.2 Members are liable for their unpaid fees and charges to the Association, and interest thereon.

## **13 TERMINATION OF MEMBERSHIP**

- 13.1 A Member may terminate his or her Membership by written notice to the General Manager.
- 13.2 Membership is automatically terminated if –
  - 13.2.1 the Member's property is sold, or
  - 13.2.2 a Member does not pay the Membership fees as set out in Clause 16.2, despite not less than 30 days' written notice of such required payment having been given by the Association to the Member.
- 13.3 The Association may terminate Membership if a Member fails to comply with the rules, provided that the Member -
  - 13.3.1 received a written non-compliance notice from the Fire Protection Officer with an agreed rectification plan; and.
  - 13.3.2 failed to implement the rectification plan within the time frame specified in the non-compliance notice.
- 13.4 The property of a Member who dies will still be protected under this Constitution, if -

- 13.4.1 the fees, charges, and interest are fully paid by his/her Estate within a reasonable time as determined by the Board; or
- 13.4.2 his or her successor-in-title re-applies for Membership.
- 13.5 If a Member's Membership is terminated, the Member –
  - 13.5.1 forfeits all fees and charges already paid to the Association;
  - 13.5.2 remains liable for any outstanding moneys owed to the Association; and
  - 13.5.3 is required to again pay the joining fee, should he or she wish to restore Membership.

## **14 FINANCES**

- 14.1 The financial year of the Association starts on the 1st April and ends on the 31 March of the following year.
- 14.2 The Association will appoint a suitably qualified person and/or institution to be responsible for the financial administration of the Association.
- 14.3 The person and/or institution must, for the Annual General Meeting present a financial statement of the Association's accounts for the previous financial year, including full details of income, expenditure and assets.
- 14.4 The financial statement must be available within reason for inspection by any Member for a period of 3 weeks (21 days) from the date of the annual general meeting.
- 14.5 All financial year-end documents and statements must be signed off by the Board.
- 14.6 The Association will further operate as a non-profit organisation.

## **15 INCOME AND ASSETS**

- 15.1 The Association will keep a record of all assets and procurements and will not give, pay or donate any funds or property to its Members or office bearers, except if such person has been in service of the Association and is paid in accordance with such duties. A Member may only be reimbursed for any expenses if he or she has paid for such expenses in line with his or her duties.
- 15.2 Members or office bearers will have no vested rights in respect of any assets belonging to the Association.

## **16 FEES, CHARGES AND INTEREST**

- 16.1 The Board, from time to time –

- 16.1.1 will determine fees and charges for Membership and services that are necessary for the proper management of the Association,
- 16.1.2 may determine annual fees and charges for Membership for more than one financial year at a time, and
- 16.1.3 may charge interest on unpaid fees, which will be calculated according to rates of financial institutions applicable at that time.
- 16.2 The fees of the Association are –
  - 16.2.1 a once-off joining fee, in an amount approved at an Annual General Meeting, regardless of the size of the land;
  - 16.2.2 annual Membership fees based on the size of the property, at a rate approved at an Annual General Meeting, and
  - 16.2.3 any other fee that may be charged for any other services and resources provided by the Association.
- 16.3 Any increase in joining and Membership fees must –
  - 16.3.1 be approved at an Annual General Meeting by the majority of Members present; or
  - 16.3.2 be approved by the majority of Members present at a Special General Meeting called for that purpose.
- 16.4 Any Member whose membership is terminated under Clause 11 is required to again pay the joining fee in order to restore Membership.
- 16.5 If a Member should die, their successor-in-title shall not be liable for the payment of the once-off joining fees.
- 16.6 An FMU may determine –
  - 16.6.1 any additional annual or once-off fees; or
  - 16.6.2 an alternative fee structure for its Members, notwithstanding the above, provided that they meet the total Membership fee contribution budgeted by the Board for the Members of that FMU.
- 16.7 Any FMU fees as determined under subclause 16.6 must be –
  - 16.7.1 decided by the majority of the Members of that FMU at a meeting called for that purpose;

- 16.7.2 approved at the Annual General Meeting or at a Special General Meeting called for that purpose, where the basis of the fee calculation must be included in the proposal that is put forward; and
- 16.7.3 paid directly to the Association unless otherwise agreed between the Association and the majority of the Members of that FMU.

## **17 SPECIAL PROVISIONS RELATING TO TAX EXEMPTION**

- 17.1 The Association has been approved by the Commissioner as a public benefit organisation as contemplated in section 30(3) of the Income Tax Act and therefore the receipts and accruals of the Association are exempt from normal tax to the extent set out in section 10(1)(cN) of the Income Tax Act. To retain such tax exemption, the Association shall always comply with the provisions of clauses 17.2 to 17.16.
- 17.2 The income and property of the Association howsoever derived shall be applied solely towards the promotion of the Association's objects or be invested and no portion thereof shall be paid or transferred, directly or indirectly, to any person other than in the course of the promotion of the Association's objects; provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the Association in return for any services actually rendered to the Association.
- 17.3 The Association shall take reasonable steps to ensure that each activity carried on by the Association is for the benefit of, or is widely accessible to, the public at large, including any sector thereof.
- 17.4 The Association shall comply with such conditions, if any, as the Minister of Finance may prescribe by way of regulation to ensure that the activities and resources of the Association are directed in the furtherance of its objects.
- 17.5 As recorded in clause 28, upon its dissolution the assets of the Association remaining after the satisfaction of all its liabilities, shall be given or transferred to some other association or institution or associations or institutions having objects similar to the Association's objects, which has been approved by the Commissioner as a public benefit organisation in terms of section 30 of the Income Tax Act.
- 17.6 There shall always be a minimum of 3 (three) Board Members who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Association and no single person shall directly or indirectly control the decision-making powers relating to the Association. For purposes of this Constitution "connected person" has the meaning ascribed to that term in the Income Tax Act.
- 17.7 The Association is prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes

and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act; provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

- 17.8 The Association shall not knowingly be a party to or permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Income Tax Act or any other Act administered by the Commissioner.
- 17.9 The Association will not pay any remuneration, as defined in the Fourth Schedule of the Income Tax Act, to any employee, office bearer, Board or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and will not economically benefit any person in a manner which is not consistent with the objects of the Association.
- 17.10 The Association shall submit the required income tax returns together with the relevant supporting documents to the South African Revenue Service annually and comply with all such other reporting requirements as may be determined by the Commissioner.
- 17.11 The Association will not use the Association's resources directly or indirectly to support, advance or oppose any political party.
- 17.12 All financial transactions of the Association shall be conducted by means of a banking account.
- 17.13 Any books of account, records or other documents relating to the Association must, regardless of whether such documents are kept in book form or not, be retained and carefully preserved by the Association for a period of not less than 10 years after the date of the last entry in any book or document.
- 17.14 The Association shall be entitled but not obliged to procure that donations to the Association shall be allowed to be deducted from the taxable income of a taxpayer, as contemplated in section 18A of the Income Tax Act, and such other tax exemptions as are available in law, and/or as the Commissioner may allow. In that event the Association shall –
- 17.14.1 comply with any additional requirements imposed in terms of section 18A(1) of the Act that are prescribed for donations to be allowed as a deduction for the purposes of section 18A of the Act; and

- 17.14.2 ensure that an audit certificate is provided upon submission by the Association to the Commissioner of its annual return for each year of assessment, confirming that all donations received or accrued by the Association in that year, in respect of which section 18A receipts were issued by the Association, were utilised in the manner contemplated by that section.
- 17.15 Within 2 (two) calendar months after drawing up the Association's financial statements, the Association must arrange for a written report to be compiled by an Accounting Officer (which may be the auditor of the Association) and submitted to the Association stating if –
- 17.15.1 the financial statements of the Association are consistent with its accounting records;
- 17.15.2 the accounting policies of the Association are appropriate and have been appropriately applied in the preparation of the financial statements; and
- 17.15.3 the Association has complied with the provisions of the NPO Act and of this Constitution which relate to financial matters.
- 17.16 The Association shall preserve each of the Association's books of account, supporting vouchers, income and expenditure statements, balance sheets and Accounting Officer's reports, in an original or reproduced form, for such period as may be prescribed from time to time in terms of the NPO Act, and in any event for a period not less than that referred to in clause 17.14 or 10 years, which is the longer.

## **18 THE BOARD OF THE ASSOCIATION**

- 18.1 The Board of the Association will –
- 18.1.1 be responsible for the governance of the Association;
- 18.1.2 set policy for the Association;
- 18.1.3 determine the strategic direction of the Association and make decisions relating to it;
- 18.1.4 appoint any staff of the Association, including the Fire Protection Officer if the CFO is not the FPO. The Board shall endeavour to procure, that if possible the, CFO is also the FPO;
- 18.1.5 guide, oversee and assist the General Manager in performing the day to day management functions. This includes but is not restricted to, communication with key role-players and Members;
- 18.1.6 compile special reports, documents and policies;
- 18.1.7 procure the needed items for effective management of the Association;
- 18.1.8 represent the Association on other committees or meetings as needed from time to time;

- 18.1.9 prepare and sign-off annual financial documents after Membership approval; and
- 18.1.10 from time to time assign responsibilities and specific tasks to a Member, employee, a person, or an institution.
- 18.2 The Board of the Association will consist of the following-
  - 18.2.1 as full Board Members by virtue of their office –
    - 18.2.1.1 the CFO of the District Municipality and if applicable any CFO of the Local Municipalities within the district;
    - 18.2.1.2 the Fire Advisor employed by the Department of Environmental Affairs, Forestry and Fisheries responsible for the district; and
    - 18.2.1.3 the Fire Protection Officer if the CFO is not the FPO.
  - 18.2.2 by way of election at the Annual General Meeting-
    - 18.2.2.1 voting Members shall elect the Board, consisting of not less than 7 and not more than 10 persons, who must be voting Members of the Association;
    - 18.2.2.2 nominations for election of the Board shall be lodged with the Board in writing at least 7 days before the date of the Annual General Meeting and every nomination shall be proposed and seconded by a voting Member;
    - 18.2.2.3 elected Board Members shall serve for a period of 3 years; and
    - 18.2.2.4 after 3 years, four of the elected members of the Board, who have been longest in office, shall retire but are eligible for re-election. In the event of more than four Board Members being eligible for retirement, due to having been elected on the same day, those to retire shall, unless they otherwise agree amongst themselves, be determined by lot.
  - 18.2.3 as associate Board Members –
    - 18.2.3.1 any other Board Member that has been co-opted for a specific input or task; and
    - 18.2.3.2 an associate Board Member does not have voting rights on the Board but can provide input to the issue in hand.
- 18.3 A person in the employment of the Association may not be elected to the Board, with the exception of the FPO.
- 18.4 The Board Members will be the office-bearers of the Association.

- 18.5 If any Board Member resigns, dies, becomes incapacitated or disqualified, or is removed from office, the Board must appoint a suitable candidate to serve on the Board for the remaining period until the next Annual General Meeting
- 18.6 A member of the Board becomes disqualified if he or she –
- 18.6.1 is declared to be of unsound mind by a court of law;
- 18.6.2 is convicted of a crime involving fraud or corruption. Any Board Member serving a suspended sentence may not serve on the executive; and/or
- 18.6.3 has been absent without a valid reason from two consecutive Board meetings.
- 18.7 Between Annual General Meetings, the Board will seek to discharge its business at meetings to take place at least every four months.
- 18.8 Meetings of the Board shall be convened by the General Manager at the request of the Chairperson or in/his absence, the Vice-Chairperson, or any of them shall call such a meeting upon receipt of the written request to that effect from at least any 2 Board Members with not less than 7 (seven) days prior notice given to the Board members.
- 18.9 Each Board Member shall have only one vote at meetings of the Board. All decisions of the Board shall be taken by way of a majority vote of the Board Members present.
- 18.10 5 Board Members, which must include the Fire Protection Officer, present at a meeting will constitute a quorum.
- 18.11 A resolution signed by not less than 75% of all Board Members as being in favour of the proposal shall be as valid and effectual as if passed at a duly convened meeting of the Board. Any such resolution may consist of several documents in the same form, each of which is signed by one or more Board Members, and shall be deemed (unless the contrary appears from that resolution) to have been passed on the date on which it was signed by the last Board Member entitled to sign it.
- 18.12 All acts done by any meeting of the Board or by any person acting as a Board member shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such member or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Board Member.
- 18.13 The inadvertent omission to give notice of any meeting of the Board shall not invalidate the proceedings at any such meeting.
- 18.14 The proceedings of the Board shall be valid notwithstanding any temporary vacancy in the Board, provided a quorum was present for the duration of such meeting.



- 18.15 The Board shall cause minutes to be kept of the appointment of officers and names of Board Members present at any meeting, together with minutes of all resolutions taken and all proceedings of any such meeting. All such minutes shall be duly entered into books properly kept and provided for that purpose. Any such minutes, or an extract signed by the Chairperson, shall be received as *prima facie* evidence of the matters therein stated.
- 18.16 The Board shall be entitled to delegate any of its powers and duties as set out in this Constitution to a duly appointed subcommittee(s).

## 19 **ELECTRONIC MEETINGS**

In addition to the physical meetings held in terms of clause 18.7 and the round robin resolutions which may be passed in term of clause 18.11, the Board has the power to conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, provided that, the Electronic Communication facility employed ordinarily enables all persons participating in the meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting. Where a meeting of the Board is held in 2 (two) or more separate places pursuant to this clause, the meeting will be deemed to be held at 1 (one) of those places as determined by the Chairperson.

## 20 **CHAIRPERSON, VICE-CHAIRPERSON & TREASURER**

- 20.1 The Chairperson, Vice-Chairperson and Treasurer of the Board from time to time, shall be elected and appointed by the Board Members and shall hold office for such term and such other terms and conditions as may be determined by the Board from time to time, and identified as such to the Members.
- 20.2 The Chairperson shall preside at all meetings of the Association and the Board at which he is present, generally exercise supervision over the affairs of the Association and perform such duties as by usage and custom pertaining to the office.
- 20.3 The Chairperson shall have a deliberative vote but not a casting vote at any meetings of the Association and Board.
- 20.4 The Vice-Chairperson shall exercise the powers and perform the duties of the Chairperson in the absence, death or resignation of the latter, or when called upon to do so by the Chairperson.
- 20.5 The Treasurer shall be responsible for providing the Association with general financial oversight and guidance as required from time to time.

## 21 **FIRE MANAGEMENT UNITS**

- 21.1 An FMU consists of a localised area in which integrated fire management efforts between individual landowners can be most effectively co-ordinated.

- 21.2 An FMU must give strategic guidance to the Association on integrated fire management in the area covered by the FMU.
- 21.3 An FMU must hold at least bi-annual meetings.
- 21.4 An FMU may require that the Association ring-fences assets provided, and funds raised by the FMU, as being for the benefit of that FMU.

## **22 GENERAL MEETINGS OF THE ASSOCIATION**

### **22.1 Annual General Meetings**

- 22.1.1 An Annual General Meeting must be called by the Board –
  - 22.1.1.1 within 60 days of the end of the financial year; and
  - 22.1.1.2 with 14 days of written or emailed notice to all Members.
- 22.1.2 In addition to any other business, the annual general meeting must include –
  - 22.1.2.1 the annual report presented by the General Manager or the Chairperson of the Association;
  - 22.1.2.2 presentation of the financial statements of the Association by the Treasurer;
  - 22.1.2.3 the Fire Protection Officer's report;
  - 22.1.2.4 the introduction and approval of any increase of fees, charges or interest;
  - 22.1.2.5 changes to the Constitution, business plan and rules, stating the precise nature and wording of the amendments to be proposed, which must be contained in the notice of the meeting;
  - 22.1.2.6 if needed, nomination of Members for the positions on the Board; and
  - 22.1.2.7 additional agenda points that have been submitted to the General Manager at least 7 days prior to the meeting.
- 22.1.3 Not less than 20 Members present and voting, are needed to form a quorum, which shall include those Members represented by proxy.
- 22.1.4 If a quorum is not reached, the meeting must be adjourned and after 10 minutes may be reconvened where the Members present will constitute a quorum.
- 22.1.5 Discussion at the meeting will be limited to the circulated and notified agenda.
- 22.1.6 Only those Members whose registration and Membership fees are fully paid up, have a right to vote, subject to the number of votes described in Clauses 26 and 27.

## 22.2 **Special General Meeting**

- 22.2.1 The Board may convene a special general meeting at any time on not less than 14 days' prior notice, stating the reason for the meeting and providing an agenda.
- 22.2.2 A special general meeting must be convened by the Board if-
- 22.2.2.1 30 or 5%, whichever be the lesser, of the paid-up Members request such a meeting in writing and name the issues to be dealt with; and;
- 22.2.2.2 the Members requesting the meeting undertake in writing to pay for the administrative costs of the meeting.
- 22.2.3 The Members present will constitute a quorum.
- 22.2.4 If any amendments to the Constitution are to be proposed at that meeting the precise nature and wording of the amendments to be proposed must be contained in the notice of the meeting.
- 22.2.5 Discussion at the meeting will be limited to the circulated and notified agenda.

## 23 **ELECTRONIC MEETINGS OF THE MEMBERS**

- 23.1.1 In addition to the physical meetings held in terms of clause 22.1 and 22.2, any general meeting of the Association may be held entirely by Electronic Communication, or the Board may provide for participation in such a meeting by members or their proxies by Electronic Communication, provided that, the Electronic Communication facility employed ordinarily enables all persons participating in the meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting. Where a meeting of the Association is held in 2 (two) or more separate places pursuant to this clause, the meeting will be deemed to be held at 1 (one) of those places as determined by the Chairperson.
- 23.1.2 The decision to conduct a general meeting of the Association by way of Electronic Communication may be made by Board or the Board shall be obliged to provide for participation in a general meeting of the Association by way of Electronic Communication upon receipt of a written request to do so, signed by not less than 20 Members.
- 23.1.3 Any notice of any general meeting of the Association at which it will be possible for Members or their proxies to participate by way of Electronic Communication shall inform Members of the ability to so participate and shall provide all reasonably necessary information to enable Members or their proxies to access the available medium or means of Electronic Communication, provided that such access shall be at the expense of the Member or proxy concerned.

23.1.4 The Board must ensure that any such meeting which is to be conducted by Electronic Communication or which allows for participation by way of Electronic Communication shall where reasonable and/or practical incorporate a facility for electronic voting by Members or their proxies.

## **24 PROXIES, REPRESENTATIVES AND POSTAL VOTES**

24.1 Any Member may at any time appoint any natural person who is a Member, as a proxy to participate in, and speak and vote at, any general meeting of the Association on behalf of that Member.

24.2 A proxy appointment –

24.2.1 must be in writing, dated and signed by the Member; and

24.2.2 remains valid for the relevant general meeting and any adjournment or postponement thereof.

24.3 Every instrument of proxy shall, as far as circumstances permit, be substantially in the following form, or in such other form as the Board may approve from time to time –

**Proxy**

"I \_\_\_\_\_

being a member of the **Greater Overberg Fire Protection Association** (the "Association"), with member number \_\_\_\_\_ do hereby appoint-

\_\_\_\_\_

or failing him/her

\_\_\_\_\_

or failing him/her, the chairperson of the meeting as my/our proxy to vote or abstain from voting on my/our behalf at the meeting of the Association to be held at \_\_\_\_\_ on \_\_\_\_\_ and at any adjournment thereof as follows—

	In favour of	Against	Abstain
Resolution 1 .....	.....	.....	.....
Resolution 2 .....	.....	.....	.....
Resolution 3 .....	.....	.....	.....
Resolution 4 .....	.....	.....	.....

\_\_\_\_\_

(Indicate instruction to proxy by way of a cross in space provided above). Except as instructed above or if no instructions are inserted above, my/our proxy may vote as he/she thinks fit.

Signed this \_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_

Member's Signature"

- 24.4 A Member or his proxy must deliver to the Association's office a copy of the instrument appointing such proxy not later than 24 hours before the commencement of the meeting at which the proxy intends to exercise that Member's rights.
- 24.5 Unless the instrument appointing a proxy provides otherwise, a Member's proxy may decide, without direction from the Member, whether to exercise or abstain from exercising any voting right of the Member and none of such rights or powers are limited, restricted or varied by this Constitution.
- 24.6 Any member in good standing who is not able to attend an annual or special general meeting of the Association may apply to the Association's head office to cast postal votes on the issues to be decided at that meeting. Official voting papers, which may include electronic voting forms, shall be made available on request from the Office. These papers, which may include

electronic voting forms, must be submitted for verification and registration by the cut-off date indicated on the voting paper to the General Manager.

## **25 AMENDMENT OF THE CONSTITUTION**

25.1 The Constitution may subject to clauses be amended whether by way of deletion, alteration, extension or howsoever, by resolution duly passed at a Special or Annual General Meeting by not less than half of the votes held by the voting Members, present or represented by proxy, subject thereto that the proposed amendments shall have been fully and clearly set out in the notice of such Special or Annual General Meeting.

25.2 The Board shall submit copies of any amendments to the Constitution to the Commissioner and to the NPO Director.

## **26 RESOLUTIONS**

26.1 Save as otherwise specifically provided in this Constitution, all resolutions to be passed at an Annual or a Special General Meeting must be passed by not less than a majority of the votes of the voting Members present or represented by proxy in voting.

26.2 The Annual or Special General Meeting, unless otherwise specified in this Constitution, shall have absolute and overriding powers over all affairs of the Association with the view to achieve the objects of the Association and to achieve compliance with the terms of the Constitution.

## **27 VOTING**

27.1 At an Annual General Meeting or Special General Meeting –

27.1.1 Only Members qualifying for Membership in terms of the above may vote,

27.1.2 Votes will be allocated as follows-

27.1.2.1  $\leq 100\text{ha} = 1$  vote;

27.1.2.2  $101 - 2\,999\text{ha} = 2$  votes; and

27.1.2.3  $\geq 3\,000 = 3$  votes.

27.2 Maximum of 5 votes for landowners with separate business entities (e.g. CapeNature).

27.3 A Member, or Board Member may vote for other Members by means of a written and signed proxy.

## 28 **DISSOLUTION**

- 28.1 The Association may only be dissolved with the approval of the Commissioner and must be proposed-
- 28.1.1 by a resolution passed at an annual general meeting or a special general meeting called for that purpose; and /or
- 28.1.2 by its deregistration by the Minister under section 8 of the National Veld and Forest Fire Act, Act 101 of 1998.
- 28.2 After confirmation of the dissolution and at that meeting, the Members must pass a resolution for the appointment of a liquidator to dispose of the Association's assets, pay its debts and settle its liabilities.
- 28.3 Any net proceeds from the assets of the Association, will be paid over by the liquidator to-
- 28.3.1 A similar organization incorporated or established in the Republic which has been approved as a Public Benefit Organisation in terms of clause 30 of the Income Tax Act;
- 28.3.2 An organisation established under any law which is exempt from Tax in terms of section 10(1)(CA) of the Income Tax Act whose sole or principal object is the carrying on of an approved public benefit activity; and
- 28.3.3 A department of State or Administration in the National, Provincial or Local sphere of Government of South Africa.

## 29 **DISPUTE RESOLUTION**

- 29.1 In the event of a dispute between Members regarding operational matters, Members must negotiate to resolve the dispute.
- 29.2 If such negotiations fail, any Member may approach the Association's Management Oversight Committee, who shall appoint an independent arbitrator of good standing to resolve the dispute and whose decision shall be final. Any costs incurred shall be borne by the parties to the dispute.
- 29.3 In the event of a dispute between Members of the Association and Board and/or Management Oversight Committee, then the process in preceding sub Clause should be followed with the exception that the appointment of the arbitrator shall be by the Chairperson of the Association and the Members to the dispute by consensus.