

Friends of the Baviaanskloof Wilderness Area Trust (IT986/2001)

1. General

- 1.1. The clause headings have been used for reference only and shall not be taken into account in interpreting this TRUST DEED.
- 1.2. Wherever possible defined terms are shown in capital letters.
- 1.3. Any reference to MASTER means:
 - 1.3.1. In general, the MASTER of the High Court of South Africa, or such other office as may replace the present office of the MASTER, and:
 - 1.3.2. in particular, means the MASTER of the High Court of South Africa having jurisdiction in regard to the affairs of the TRUST from time to time.
- 1.4. Any reference to "WELFARE" shall mean, besides the ordinary meaning of those words, also the benefit, comfort, maintenance, education, advancement and pleasure of the BENEFICIARIES, and includes also in general all those matters and purposes which the TRUSTEES in their discretion may consider to be in the interests of, or for the advantage of, the BENEFICIARIES.

2. Background

The Trust is to be registered in an exercise to promote conservation and in particular to ensure the continued existence of the Baviaanskloof as a wilderness area:

3. Formation of trust

- 3.1. The DONOR hereby creates a Trust to be known as Friends of the Baviaanskloof trust (the TRUST).
- 3.2. The TRUSTEES may from time to time by unanimous resolution change the name of the trust.

4. Beneficiaries

The BENEFICIARIES of the TRUST (the BENEFICIARIES) shall be those persons, institutions or areas selected by the TRUSTEES in their entire and absolute discretion to be a BENEFICIARY or BENEFICIARIES, from amongst the following:

- 4.1. Fully paid up members ("Members") of good standing of the TRUST who have:
 - 4.1.1. applied for membership of the trust;
 - 4.1.2. completed the necessary application forms, paid all subscriptions and otherwise complied with all requirements and criteria established from time to time by the TRUSTEES.
- 4.2. The Baviaanskloof wilderness area ("BAVIAANSKLOOF").
- 4.3. The Eastern Cape Parks Board.
- 4.4. WESSA
- 4.5. Wilderness Foundation of Southern Africa
- 4.6. Other persons, who in the opinion of the Trustees have subscribed to and accept the main objects and methods of the TRUST listed below.
- 4.7. any trust established or to be established for the benefit of any BENEFICIARY or group of BENEFICIARIES, provided that the BENEFICIARIES of such trust shall be natural persons only.
- 4.8. any institution which is or will be established and falls within the ambit of Sections 10(1)(f), 10(1)(A) and 18A of the Income Tax Act, No. 58 of 1962 (as amended).

5. Accounting officer

It is recorded that although an accounting officer of the TRUST will not be appointed at the time of the founding of the trust, the TRUSTEES of the TRUST shall be entitled in their discretion from time to time to appoint an accounting officer for the TRUST, if and when they deem it to be appropriate (“the Accounting officer”).

6. Main objects

The main object of the TRUST is to preserve, maintain and enhance a TRUST FUND for the benefit, security and future WELFARE of the BENEFICIARIES, and to enable fulfilment of the main object, the TRUSTEES shall individually and collectively, together with those committees appointed in terms of the Trust Deed, make a meaningful contribution to the BAVIAANSKLOOF as follows:

- 6.1. The promotion of the conservation ethos with regard to the entire spectrum of biodiversity, cultural heritage, ecology and geological history of the area;
- 6.2. The promotion of community involvement with regard to the participation, enjoyment, education and safeguarding of all the resources in the area for the benefit of present and future BENEFICIARIES;
- 6.3. The initialisation and realization of projects to give effect to sub-paragraphs 6.1 and 6.2 above;
- 6.4. Co-ordination with other diverse interest groups who can add to the success of sub-paragraphs 6.1, 6.2 and 6.3 above.

7. Methods

In pursuance of and consistent with the objects listed above. The TRUST shall take such steps as may be deemed necessary and appropriate but will:

- 7.1. Assist competent authorities in the conservation of BAVIAANSKLOOF and in its development, including the development of the greater Baviaanskloof;
- 7.2. Co-operate with particular interest groups including recreational and other potential users, investors and visitors to the area;
- 7.3. Co-operate with other organizations with similar objects;
- 7.4. Consult with authorities concerned with development of the area;
- 7.5. Foster interest in the area and in the collections of data about it;
- 7.6. Prepare, publish and disseminate appropriate information about the area.

8. Prohibited objects or activities

- 8.1. The TRUST shall not be entitled to:
 - 8.1.1. Conduct any trading or profit making activities;
 - 8.1.2. participate in any business carried on by the TRUSTEES or BENEFICIARIES

8.1.3. Provide any;

- 8.1.3.1. financial assistance or
- 8.1.3.2. premises;
- 8.1.3.3. continuous services or;
- 8.1.3.4. facilities,

required by its MEMBERS for the purposes of carrying on business.

8.2. The TRUST shall not be permitted to distribute any of its profits or gains to any person and is required to utilize its funds solely for its main and supplementary objects.

9. Donations and contributions

9.1 The DONOR irrevocably donates to the TRUSTEES the sum or R100,00 (ONE HUNDRED RAND), to be held by them for the BENEFICIARIES in accordance with the TRUST DEED.

9.2 The TRUSTEES accept the donation made by the DONOR.

9.3 The TRUSTEES may in their sole discretion determine, in conjunction with the committees established in terms of this TRUST, the subscription that is to be paid on an annual basis by the MEMBERS.

10. The trust fund

10.1 No BENEFICIARY shall have any vested interest in or right to any portion of:

- 10.1.1 the income of the TRUST; or
- 10.1.2 the capital of the TRUST

10.2 The capital of the TRUST shall comprise the following:

- 10.2.1 The assets donated by the DONOR in terms of clause 9.1:
- 10.2.2 The assets, movable or immovable and including any contingent interest in any assets, which may hereafter be paid or transferred by any person to or for the account of the TRUST or which the TRUST may acquire by any means, subject to the provisions of this TRUST DEED and the acceptance of such assets by the TRUSTEES;
- 10.2.3 Any capital profits made as a result of the realization of any assets of the TRUST by the TRUSTEES;

(the "TRUST FUND").

10.3 The TRUST FUND shall vest in the TRUSTEES in their fiduciary capacities to be administered and dealt with by them subject to the terms and conditions of this TRUST DEED.

11. Appointment of trustees

- 11.1. The TRUSTEES shall be as listed in ANNEXURE B
- 11.2. There shall at all times be at least 4 (four) but no more than 9 (nine) TRUSTEES.
- 11.3. If the number of TRUSTEES falls below the requisite number, the vacancy in office of TRUSTEES shall be filled by a person nominated by the TRUSTEES remaining in office from the BENEFICIARIES.
- 11.4. Distributions and awards of income and capital shall be in the sole and absolute power and discretion of the TRUSTEES.

12. Alternate trustees

- 12.1. A TRUSTEE shall be entitled to nominate any other MEMBER to act as his alternate during his/her temporary absence or temporary unavailability to act as TRUSTEE.
- 12.2. The nominations shall be in writing and shall stipulate the period for the appointment of an alternate TRUSTEE. E-mail from the TRUSTEE shall be considered as “in writing” in this context.
- 12.3. The appointment of an alternate TRUSTEE shall take effect upon the approval of the appointment by the remaining TRUSTEES.
- 12.4. An alternate TRUSTEE shall accept in writing. E-mail from the proposed alternate shall be considered as “in writing” in this context.
- 12.5. An alternate TRUSTEE, while in office, shall have all the duties, functions and powers of the TRUSTEE he/she represents.
- 12.6. An alternate TRUSTEE shall cease to hold office upon:
 - 12.6.1. written notice from the TRUSTEE who appointed him/her;
 - 12.6.2. the TRUSTEE who appointed him/her ceasing to hold office;
 - 12.6.3. the happening of any event, which, if he/she were and original TRUSTEE, would disqualify him/her.
- 12.7. It is anticipated that an alternate TRUSTEE’s occupation of office shall be temporary and of short duration.

13. Vacation of office by A trustee

The office of any TRUSTEE shall be vacated if such TRUSTEE:

- 13.1. resigns by written notice to the remaining TRUSTEES, which the TRUSTEE shall be entitled to do at any time;
- 13.2. becomes of unsound mind or incapable of managing the TRUSTEE’s affairs, or other reason becomes incapable of acting as a TRUSTEE;

- 13.3. becomes insolvent or assigns the TRUSTEES estate for the benefit of or compounds with the TRUSTEE's creditors;
- 13.4. becomes disqualified to act as a Director of a company incorporated under the company laws of The Republic of South Africa applicable from time to time;
- 13.5. is removed from office by Order of Court;
- 13.6. is removed from office by a majority vote of all TRUSTEES for reasonable cause;
- 13.7. is removed from office by 70% (seventy percent) of the members;
- 13.8. fails to attend any meeting of TRUSTEES, or committee meeting, on 3 (three) consecutive occasions without apology.

14. Duties of trustees

The management and control of the TRUST shall vest in the TRUSTEES, who shall:

- 14.1. ensure that the member committee maintains proper accounting and other records of all transactions concluded by them in their capacities as such on behalf of the trustees;
- 14.2. cause to be framed by the member committee as at the last day of February every year (or as at such other date as the TRUSTEES shall for time to time determine) an account of the administration of the TRUST disclosing the TRUST FUND, all receipts and payments made by or to the TRUST, and the manner in which the TRUST FUND is held or invested;
- 14.3. be entitled, if any of the TRUSTEES is a practising chartered accountant and auditor, to appoint that TRUSTEE, or any firm in which he/she is a partner from time to time, to be the accounting officer or the auditor of the TRUST;
- 14.4. from time to time furnish the MASTER with such information regarding the affairs of the TRUST as he may legally require;
- 14.5. instruct the ACCOUNTING OFFICER of the TRUST (should there be an ACCOUNTING OFFICER) from time to time to disclose such information regarding the affairs of the TRUST to the MASTER as he may legally require;
- 14.6. maintain proper minutes of all meetings of the TRUSTEES and all decisions from time to time taken by the TRUSTEES.
- 14.7. in their discretion cause a steering committee to be elected from paid up members which committee will oversee the day to day activities of the trust and report to the trustees on every trustee meeting.

15. Powers of trustees

- 15.1. The TRUSTEES may exercise such powers in relation to the assets of the TRUST as are set out in the TRUST DEED, and in particular in ANNEXURE A to the TRUST DEED.

15.2. Any decision reached by the TRUSTEES in the exercise of any power or discretion conferred upon them in terms of this TRUST DEED shall;

15.2.1. be final; and

15.2.2. not be challenged under any circumstances whatever by any of the BENEFICIARIES or any other person who may have an interest in the TRUST.

15.3. The Trustees may exercise such powers vested in them to override, guide and or substitute decisions of the steering committee if such a decision is not in the best interest of the Trust

16. Power to ignore interests

16.1. The TRUSTEES shall exercise or refrain from exercising such powers vested in them as they may determine in their sole discretion.

16.2. In exercising or refraining from exercising any powers conferred in this TRUST DEED in favour of any person, the TRUSTEES may ignore the existing potential interests of any other person and of the TRUST.

16.3. No appointment or advancement made in the exercising of any power shall be invalid on the grounds that:

16.3.1. an insubstantial, illusory or nominal share is appointed to any one or more objects of such power, or is left un-appointed;

16.3.2. any object or potential object of such powers are thereby altogether excluded.

16.4. Every such appointment or advancement shall be valid regardless of whether any one or more of the objects of the power fails or defaults in taking up any share in the TRUST FUND.

17. Register of interested persons

17.1. No TRUSTEE will be required to furnish security in connection with his/her appointment and/or for the due administration of the TRUST in terms of any law applying from time to time, and the MASTER and any other competent officials are directed to dispense with such security

17.2. If the TRUSTEES or any of them is required to furnish such security, the costs and expenses incurred in furnishing the security shall be paid by the TRUSTEES out of the TRUST income and/or TRUST FUND, as may be decided by the TRUSTEES.

18. Administration of trust

Subject to compliance with the TRUST DEED, the TRUSTEES shall administer the TRUST and adapt such procedures and take such other steps as they shall from time to time deem necessary or desirable.

19. Meetings of trustees

The following provisions shall apply to the performance by the TRUSTEES of their duties in terms of the TRUST DEED from time to time:

- 19.1. The TRUSTEES shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they may deem fit.
- 19.2. The TRUSTEES shall elect from their body a Chairperson to hold office for such period as the TRUSTEES may decide.
- 19.3. All questions arising at any meeting of the TRUSTEES shall be decided by a majority of votes.
- 19.4. In the event of an equality of votes arising at any meeting of the TRUSTEES, the chairperson shall not have a second or final casting vote. The chairperson shall only have a second or final casting vote if at the time of the appointment of such chairperson the TRUSTEES unanimously agree to this effect.
- 19.5. No threatened or actual deadlock, nor any failure to pass a resolution shall entitle any BENEFICIARY or TRUSTEE to apply for the sequestration of the TRUST.
- 19.6. The majority of TRUSTEES shall constitute a quorum;
- 19.7. If a quorum is not present at a meeting of TRUSTEES of which at least seven (7) days prior notice has been given to all TRUSTEES, the meeting shall be adjourned for seven (7) days and the quorum at that adjourned meeting shall be the TRUSTEES present provided that only the business from the adjourned meeting shall be dealt with at this meeting.
- 19.8. Any TRUSTEE shall be entitled, on reasonable notice to the other TRUSTEES, to summon a meeting of TRUSTEES from time to time.
- 19.9. A resolution in writing signed by all TRUSTEES for the time being shall be as valid and effectual as if it had been passed at a meeting of the TRUSTEES duly called and constituted.
- 19.10. All contracts, Deed and other documents which require to be signed on behalf of the TRUST shall be signed in such a manner as the TRUSTEES determine.
- 19.11. Where any discretion is given to the TRUSTEES in terms of this TRUST DEED they shall have an absolute right to exercise such discretion as they may deem fit and shall not be required to account for any decision which they may make in so doing.

20. Meetings of members and quorum

- 20.1. 14 (FOURTEEN) clear days notice in writing (which may include email), specifying the place, the day, the hour and the business proposed to be transacted shall be given to all MEMBERS when convening general meetings.
- 20.2. The failure to serve notice of a general meeting on any member shall not affect the validity of the meeting
- 20.3. 10 (ten) members present in person or by proxy shall constitute a quorum for purposes of all general meetings.
- 20.4. The instrument appointing the proxy shall:

- 20.4.1. be deposited at the registered office of the TRUST not less than 48 (forty eight) hours before the time for holding the meeting at which the person named in the instrument propose to vote;
- 20.4.2. expire after the specific meeting concerned;
- 20.4.3. not be used at an adjourned meeting, if it could not have been used at the original meeting.
- 20.4.4. Be provided in writing specifying which member the proxy is conferred on as well as an alternate MEMBER, provide details of the resolution referred to and the required decision.
- 20.5. If, at the expiry of 15 (fifteen) minutes after the hour at which the meeting is appointed to be held a quorum shall not have assembled, a meeting may be adjourned by the chairperson to a date to be fixed by the TRUSTEES.
- 20.6. 14 (fourteen) days notice shall be given to all MEMBERS in respect of any adjourned meeting.
- 20.7. In the event of no quorum being assembled at any adjourned meeting, the MEMBERS present and entitled to vote at the meeting, shall constitute a quorum for purposes of such meeting.
- 20.8. Any member shall have the right to call for a vote to be determined by ballot and in the event of such request being proposed and seconded at the meeting in person of 2 (two) MEMBERS entitled to vote, the chairperson shall be obliged to determine such ballot by vote
- 20.9. All resolutions to be carried shall require a majority of votes cast by those MEMBERS present in person at any meeting.
- 20.10. A general meeting shall be called:
 - 20.10.1. upon request by the TRUSTEES;
 - 20.10.2. upon request signed by any 5 (five) MEMBERS.
- 20.11. The minutes of all general meetings shall be circulated to all MEMBERS as soon as conveniently possible.

21. Annual general meeting

- 21.1. The TRUSTEES shall be obliged to call an annual general meeting of the TRUST each year, within 6 (six) months of the financial year-end of the TRUST.
- 21.2. The following business shall be conducted at each annual general meeting:
 - 21.2.1. the nomination of new TRUSTEES;
 - 21.2.2. the consideration of the annual financial statements of the TRUST for the immediately preceding and completed financial year.
 - 21.2.3. any further business of which due notice has been given.

All other business laid before any other general meetings shall be considered special business.

- 21.3. 21 (twenty one) days notice shall be given to all MEMBERS of the annual general meeting.

22. Voting rights of members

- 22.1. At all general meetings of the TRUST every MEMBER present in person or represented by a proxy shall be entitled to 1 (one) vote, which may be exercised either on a show of hands or on a poll.
- 22.2. In case of an equality of votes the chairperson of the meeting shall not be entitled to a casting vote in addition to his deliberative vote.
- 22.3. At any general meeting a resolution put to the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairperson or the MEMBERS so qualified as referred to hereunder, and unless a poll is so demanded, a declaration by the chairperson that a particular resolution has, on a show of hands, been carried unanimously or by particular majority or negatived, an entry to that effect in the book containing the minutes of the proceedings of the trust shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour or of against such resolution.
- 22.4. The demand for a poll shall be made by not less than 2 (Two) MEMBERS present at the meeting and having the right to vote at such meeting. The demand for a poll may be withdrawn.
- 22.5. If a poll is duly demanded, it shall be taken in such manner as the chairperson directs.
- 22.6. A poll demanded on the election of a chairperson or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 22.7. In the case of legal entities, the votes are to be exercised by the person authorised to represent the legal entity concerned for that purpose.

23 Disputes

- 23.1 Any dispute whatever between any of the parties to this TRUST arising out of or in regard to:

23.1.1 the rights, duties or powers of any of the parties to; or

23.1.2 the interpretation of the TRUST; or

23.1.3 the implementation or termination of the TRUST;

Shall be submitted to and be decided upon by an expert on notice given by any party to the other in terms of this clause.

- 23.2 Unless the parties agree to the contrary, in writing, the expert shall be determined as follows:
- 23.2.1 if the matter in issue is an accounting matter only, the expert shall be a Chartered Accountant of not less than ten (10) years standing and experience nominated by The President for the time being of the Eastern Province Regional Branch of the Institute of Chartered Accountants;
 - 23.2.2 if the matter is a legal matter only, the expert shall be an Attorney of not less than ten (10) years standing practising as such at Port Elizabeth, and nominated by the President for the time being of the South Eastern Cape Attorneys Association.
 - 23.2.3 if the matter in dispute is any matter, a person with known and appropriate attributes and experience, nominated by the president of the time being of the South Eastern Cape Attorneys Association.
 - 23.2.4 if the parties are unable to agree whether the dispute fails to be determined by a person to be appointed in terms of the above then the expert shall be nominated by the president for the time being of the South Eastern Cape Attorneys Association.
- 23.3 The expert nominated or appointed shall in all respects act as an expert and not an arbitrator.
- 23.4 The expert may decide the matter submitted to him according to what he considers as just and equitable in the circumstances.
- 23.5 Any hearing by the expert shall be at such venue and at such times as he may nominate.
- 23.6 The parties shall use their best endeavour to procure that the decision of the expert is given within 21 (twenty one) days or as soon as possible after it has been demanded.
- 23.7 The experts decision shall be final and binding on all parties affected thereby, shall be carried into affect and may be made an Order of any competent Court at the instance of any of the parties.
- 23.8 The expert shall determine which of the parties and to what extent the parties shall be liable for the cost of the determination (including costs incurred by any of the other parties to the dispute). In addition the expert shall be entitled to call on any or all of the parties to the dispute to provide guarantees for the payment of the experts costs, in such amounts and in such manner as the expert may deem appropriate.
- 23.9 This clause constitutes and irrevocable consent by the parties to any proceedings in terms hereof and none of the parties shall be entitled to withdraw from the provision or to claim at any proceedings that he is not bound by the clause.

- 23.10 This clause is severable from the rest of this TRUST DEED and shall remain in effect even if the whole or any part of the TRUST DEED is declared invalid or unenforceable or is terminated for any reason.

24 Remuneration and professional fees of TRUSTEES

- 24.1 Any TRUSTEE engaged in any profession or business shall be entitled to charge for services rendered to the TRUST at a rate to which he r his firm would have been entitled in the ordinary course of his profession or business.
- 24.2 All *bona fide* costs and expenses incurred by the TRUSTEES in the administration of the TRUST or the exercise of the powers conferred upon them shall be paid by the TRUSTEES out of the TRUST income and/or TRUST FUND, as may be decided by the TRUSTEES.

25 Liability of TRUSTEES

- 25.1 No TRUSTEE shall be answerable for or be liable to make good any loss occasioned by or sustained by the TRUSTEE for any cause howsoever arising, except such loss as may arise or be occasioned by the TRUSTEES dishonesty.
- 25.2 No TRUSTEE shall be liable for any act of dishonesty committed by another TRUSTEE unless the TRUSTEE was party thereto.
- 25.3 The TRUSTES are indemnified out of and by the TRUST FUND against all claims and demands of whatsoever nature that may be made upon them arising out of the *bona fide* exercise or purported exercise of any of the powers conferred upon them in terms of this TRUST DEED.
- 25.4 No TRUSTEE shall be bound to take any proceedings against a co-TRUSTEE for any breach or alleged breach of trust committed by such co-TRUSTEE.

26 Amendments to the TRUST DEED

- 26.1 The provisions of this TRUST DEED may be amended, added to or varied:
- 26.1.1 with the written agreement of all the TRUSTEES of the TRUST for the time being; and/or
- 26.1.2 on a show of hands by way of a pole of 75% (seventy five percent) of the MEMBERS of the TRUST,
- provided that no amendment, addition or variation shall be made which would have the effect of conferring any right to alter the BENEFICIARIES under this TRUST.
- 26.2 The power to amend, add or vary is intended to apply to administrative elements of the TRUST and may not be exercised to make any variation which would have the effect of revoking or varying the provisions of the TRUST relating to the destination of either the capital or the income of te TRUST.

27 Application of income

- 27.1 The TRUSTEES shall be entitled, in their sole and absolute discretion, to pay, use or apply the whole portion of the income accruing from the investment of the TRUST FUND from time to time for the WELFARE of all, and any one or more of the BENEFICIARIES in such proportions as they deem appropriate.
- 27.2 Where the income of the TRUST is at any time derived from different sources or is of different kinds, the TRUSTEES shall be entitled for the purpose of or in allocating, distributing or applying any party of that income, to identify its source/s and its nature and to allocate or distribute or apply its income derived from the source/s and of the nature so identified.
- 27.3 The TRUSTEES shall have the discretion not only to vest nett income in the BENEFICIARIES of the TRUST but shall also have the power to pass on all deductions and allowances incurred in respect of such nett income amongst the BENEFICIARIES in the ratio that the nett income of the TRUST vesting in the BENEFICIARIES bears to the nett income of the TRUST.
- 27.4 Any portion of the income of TRUST not paid used or applied during any financial year shall be retained, and after making provision for payment of all necessary expenses, interest due, taxation TRUSTEES remuneration and all other costs incidental to the administration of the TRUST, shall be accumulated in the TRUST FUND and shall, at the discretion of the TRUSTEES either:
- 27.4.1 be held in a fund labelled "Undistributed Income Fund" and be available thereafter for distribution by the TRUSTEES in whole or in part; or
- 27.4.2 be added and be deemed to form part of the capital of the TRUST.

28 Application of capital

- 28.1 The TRUSTEES shall be entitled in their sole and absolute discretion by unanimous resolution of all the TRUSTEES, to distribute to any BENEFICIARY, such portion of the capital of the TRUST as they may deem fit.
- 28.2 Upon termination of the TRUST, the capital of the TRUST shall be distributed amongst the BENEFICIARIES in the same proportions in which they are entitled to the nett income of the TRUST as provided for in clause 27. To ensure a distribution of the capital of the TRUST in the stipulated proportions, account shall be taken on termination of the TRUST of any distributions made to a BENEFICIARY in terms of clause 28.1. Any distributions of capital in terms of clause 28.1 shall be reckoned as an advance payment on account of capital payable on termination of the TRUST and the appropriate adjustment shall be made on termination of the TRUST, is being the intention that the BENEFICIARIES shall receive the capital of the TRUST in the proportions referred to in clause 27.

29 Payments to charity

- 29.1 Notwithstanding the trust and powers contained in the TRUST DEED, the TRUSTEES may exercise of their TRUST and powers at any time during the continuance of this TRUST;
- 29.1.1 Pay or apply any part of the TRUST FUND to or for such charity (not being beneficiaries) in such proportions if more than one and generally in such manner as the TRUSTEES shall at their discretion deem fit; and
- 29.1.2 At the request of any BENEFICIARIES, if the TRUSTEES in their absolute discretion shall deem fit, pay and apply any part of the TRUST FUND to or for the benefit of any charitable institution or other charitable objects, in which event such payment or application shall be deemed to be for the benefit of such BENEFICIARY.
- 29.2 The TRUSTEES shall not be restricted by any rule of law as to the amount or manner of such payment or application. A written receipt from such person as the TRUSTEES may reasonably believe to be the treasurer or other officer of any charitable institutions shall be sufficient charge OF THE trustees for any payment to such charitable institution. The TRUSTEES shall not be required to see the allocation of any monies so paid.

30 Termination of the TRUST

- 30.1 This TRUST shall terminate upon the passing of a unanimous resolution to that effect by the TRUSTEES, who shall be entitled to terminate the TRUST, either wholly or in part, when they consider there is good reason so to do. The decision by the TRUSTEES to do so shall not be subject to challenge by any existing or potential BENEFICIARY.
- 30.2 On termination of the TRUST, the TRUSTEES shall, pay over or deliver the balance of the TRUST FUND as the case may be, to the BENEFICIARIES in the proportions in which the BENEFICIARIES are entitled to share in the income and capital of the TRUST regard being had to the provisions of clause 27 and 28 of the TRUST DEED.
- 30.3 Any decision made by the TRUSTEES as aforesaid shall become binding on all interested parties and shall not be capable of being challenged or upset by any person who may claim a right of challenge or otherwise by reason of his or her being a potential BENEFICIARY.
- 30.4 The rights of BENEFICIARIES shall be subject to the preparation of the necessary final accounts as at the relevant date and subject to all necessary provisions to be made at the relevant date for the discharge of the TRUSTS obligations, if any, in respect of any liabilities or outstanding taxes, costs or fees. No BENEFICIARY shall have any rights against the TRUSTEES in respect of payment, transfer or delivery of any of any capital or other benefit that may have accrued to such BENEFICIARY until such time as the TRUSTEES have had all reasonable opportunity to prepare whatever accounts may be necessary and to discharge any and all claims or obligations precedent or preferent to such BENEFICIARY's rights.

30.5 The TRUSTEES shall have the power to advance the date upon which any BENEFICIARY shall receive payment in terms of this clause, either in whole or in part.

30.5.1 The TRUSTEES shall have power, if they deem it appropriate to do so, to anticipate the termination date in respect of any part of the TRUST FUND by vesting any part of the capital held by them at any one or more of the potential capital BENEFICIARIES of the TRUST without affecting actual payment or delivery to the BENEFICIARY or BENEFICIARIES concerned.

30.6 Any capital vested in a BENEFICIARY in terms of sub-clause 30.5.1 above shall be credited to the account of that BENEFICIARY and shall, if not paid to the BENEFICIARY, remain under the administration of the TRUSTEES and shall be retained by them in trust subject to all terms and conditions of this TRUST DEED provided that the income derived from such BENEFICIARIES vested capital shall be utilised by the TRUSTEES in accordance with the provisions of sub-clause 30.5.1 above or accumulated by them exclusively for the benefit or advantage of such BENEFICIARY.

30.7 Any such vesting, payment or advance of capital to a BENEFICIARY shall be taken into account and collated on final termination of the TRUST but insofar as any payment of capital in terms hereof may be received on termination of the TRUST, such excess or such payment as the case may be, shall not be payable by or recoverable from such BENEFICIARY.

30.8 In exercising their powers under sub-clause 30.5.1 above, the TRUSTEES shall have absolute discretion to determine:

When capital shall from time to time, vest in any BENEFICIARY, as well as the amount thereof;

30.8.1 The conditions upon which such capital and any accumulated income shall vest in any BENEFICIARY, including whether or not interest will be payable on such capital, and if so, the rate of interest applicable from time to time;

30.8.2 When such capital shall be paid over to any BENEFICIARY;

30.8.3 The manner in which such capital shall be dealt with.

31 Tax exempt status

31.1 The TRUSTEES shall ensure that the TRUST complies with such conditions as the Minister may prescribe by way of regulation to ensure that the activities and resources of the TRUST are directed in the furtherance of its object.

31.2 There shall at all times be at least 3 (three) TRUSTEES, who are not connected persons in relation to each other, who shall accept the fiduciary responsibility of the TRUST.

31.3 No funds may be distributed to any person (otherwise than in the course of undertaking any public benefit activity) and the funds must be utilized solely for the object for which the TRUST has been established.

- 31.4 Fund may only be invested:
- 31.4.1 with a financial institution as defined in section 1 of the Financial Institutions (Investment funds) Act, 1984 (Act no. 39 of 1984);
 - 31.4.2 in securities listed on a stock exchange as defined in Section 1 of Stock Exchanges Control Act, 1985 (Act no. 1 of 1985); or
 - 31.4.3 in such other prudent investments in financial instruments and assets as the Commissioner for SARS (The COMMISSIONER) may determine after consultation with the Executive Officer of the FSB and the Director of Non-profit Organizations,

provided that the provisions of this sub-paragraph shall not prohibit the TRUST from retaining any investment (other than any investment in the form of a business undertaking or trading activity) in the form that it was acquired by way of donation, bequest or inheritance.

- 31.5 The TRUST may not accept any donation which is recoverable at the instance of the donor for reasons other than a material failure to conform to the designated purpose and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of Section 18 A of the Act: Provided that a donor may not impose conditions which would 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.

32 Payment of tax

- 32.1 Any form of tax, levy or duty assessed against the TRUSTEES by reason of the TRUST DEED may be discharged by the TRUSTEES in their sole discretion as a first charge out of the TRUST FUND.
- 32.2 For purposes of raising funds to discharge or refund the amounts out of any tax, levy or duty referred to above, the TRUSTEES may exercise such powers as they consider necessary, including the power to borrow money or to realise the TRUST FUND.
- 32.3 Any payment or refund contemplated in this paragraph may be affected wholly or partly out of income or capital or both.

33 Indemnity against tax liability

If any person, including the DONOR (THE REPRESENTATIVE TAX PAYER) is assessed for tax:

- 33.1 In respect of any income received by or accruing to the TRUSTEES, the TRUST or any BENEFICIARY by virtue of a donation to the TRUST FUND or;
- 33.2 Arising from the investment, accumulation or capitalization of any of the TRUST income or assets (including the proceeds or any disposal thereof) (jointly referred to as the TAX)

the TRUSTEES shall be entitled to refund to the representative tax payer out of the TRUST FUND an amount equal to the additional tax imposed on the REPRESENTATIVE TAX PAYER under the circumstances envisaged in the paragraph. The intent of the foregoing is to afford, at the TRUSTEES election, a indemnity to the REPRESENTATIVE TAX PAYER against the TAX.

Signed by elected TRUSTEES

D.Stigant	Date
M.Brouard	Date
M.Wood	Date
J.Buckle	Date
M.le Roux	Date
P.Marsh	Date

Friends of the Baviaanskloof Area Trust

Powers of Trustees

1. The TRUSTEES shall have such powers in dealing with the assets for the TRUST from time to time as they in their sole and absolute discretion may deem to be in the interests of the TRUST FUND.
2. Without prejudice to the generality of the powers conferred upon the TRUSTEES in terms of clause 1 of this annexure or in terms of any other provision of the TRUST DEED, the TRUSTEES shall have the power from time to time:
 - 2.1. to open and operate (either themselves or by a person or persons authorised by them) one or more accounts with banks, or other financial institutions of a similar nature whether in the Republic of SA or elsewhere, in the name of the TRUST FUND.
 - 2.2. to draw and issue cheques and similar financial instruments, and to receive cheques, deposits, promissory notes, bills of exchange and similar financial instruments;
 - 2.3. to generally perform all such tasks and exercise all such authorities as may be necessary for effective utilization and operation of the banking and other accounts referred to in 2.1;
 - 2.4. to invest in property of any nature, movable or immovable, corporeal or incorporeal;
 - 2.5. to carry on any business activity of whatever nature, including any trading or farming activity, which the TRUSTEES may in their discretion deem appropriate, and whether solely or jointly with others and/or through the medium of partnerships and/or companies and to that end to float companies and to take up and/or otherwise acquire shares in new or existing companies;
 - 2.6. to establish further trusts, corporations or other entities, incorporated or unincorporated, for the primary benefit of any person or persons or class or classes, or persons for whose benefit the TRUST has been established or who might be entitled by any of the provisions hereof to receive any benefit hereunder and to that end to appoint and/or other officers, to determine the conditions and BENEFICIARIES of any such further trusts or other entities, to execute TRUST DEEDS, statutes and/or other documents and to do all things necessary or appropriate to further the establishment of any trusts or other entities, and to make donations, grants and/or loans to any such further trusts from the income and/or the capital of the TRUST FUND;
 - 2.7. to bind the TRUST towards any third party as surety or guarantor for the debts or obligations of any other party.

Annexure B

Members of the trust

As per trustee meeting held on the 2nd December 2008 trustees are:

D.Stigant (Chairman)

M.Brouard

M.Wood.

J.Buckle

P.Marsh

M.le Roux