

MEMORANDUM OF AGREEMENT

Made and entered into between

CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY

(Herein after referred to as “**the City**”)

Established in accordance with the Local Government Municipal Structures Act No 117 of 1998, as amended – herein represented by Dr Basker Desai, the Executive Director:

Health who is duly authorized to sign this Agreement

And

EKHAYA HEALTH AND FITNESS CONSORTIUM

(Hereinafter referred to as “**the Consortium**”)

Duly represented by Dr T Mmoledi

in his capacity as Director of Ekhaya Health and Fitness Consortium

Duly authorized in terms of a resolution of the Company’s Board of Directors.

WHEREAS

The Johannesburg Metropolitan Municipality commits itself to the operation of the Ekhaya Health and Fitness Consortium Incorporating a Biokinetic Centre for Chronic diseases and Sports Injuries Rehabilitation Programmes;

Ekhaya Health and Fitness Consortium has entered into a lease agreement with Stadium Management for the lease of the gym at the Dobsonville Soccer Stadium. Copy of this Agreement attached as Annexure "A".

Now therefore the Parties agree as follows:

1 INTERPRETATIONS

1.1 In this Agreement, unless clearly inconsistent with or otherwise indicated by the context -

1.1.1 Any reference to the singular (including in the expressions defined in 2) includes the plural and *vice versa*, any reference to natural persons includes legal persons and *vice versa* and any reference to a gender includes the other genders;

1.1.2 Any reference to a number of days shall be a reference to calendar days, unless it is specifically stated that such reference is a reference to Business Days;

1.1.3 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation;

1.1.4 where any term is defined within the context of any particular clause or sub-clause, the term so defined shall, unless it appears clearly from such clause or sub-clause that such term has limited application to the relevant clause or sub-clause, bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that such term has not been defined in Clause 2.

- 1.2 Where this Agreement requires a Party to use its "**best endeavours**" in relation to an act or omission, that Party shall do all such things as are or may be reasonably necessary or desirable so as to achieve that act or to omit taking an action.
- 1.3 This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa.

2. DEFINITIONS

- 2.1 In this Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them below, and cognate expressions bear corresponding meanings:
- 2.1.1 "**the/this Agreement**" means this document together with all of its annexures and schedules.
- 2.1.2 "**Centre**" means Ekhaya Health and Fitness designated for rehabilitation of patients with cardiac and other chronic diseases of lifestyle, within the Dobsonville Soccer Stadium;
- 2.1.3 "**City**" means City of Johannesburg Metropolitan Municipality, a metropolitan municipality established by virtue of Notice No. 6766 dated 1 October 2000, read with section 14 (2) of the Local Government: Municipal Structures Act, 1998.
- 2.1.4 "**Contract Period**" means a period of 3 (three) consecutive years commencing on the Effective Date;
- 2.1.5 "**Effective Date**" means the date on which this Agreement commences.
- 2.1.6 "**The Consortium**" means Ekhaya Health and Fitness Consortium;
- 2.1.7 "**Personnel**" means any employee, agent, consultant, or other representatives of the Parties;
- 2.1.8 "**Parties**" means the Johannesburg Metropolitan Municipality, and Ekhaya Health and Fitness Consortium collectively and "Party" means any of the Parties;
- 2.1.9 "**Signature Date**" means the date of signature of this Agreement by the Party last signing;
- 2.1.10 "**Termination Date**" means 3 (three) years from the date of Commencement of this Agreement.

3. DURATION

The Agreement is for a period of 3 (three) years from the commencement date.

4. RESPONSIBILITIES OF THE CITY

- 4.1 The City shall pay salaries of two suitably qualified personnel members of the Consortium.
- 4.2 The City shall pay a monthly amount of R5000, 00 (Five thousand rand) towards the operation costs of the Consortium.
- 4.3 The equipment on the premises as listed in Annexure B is recorded as being owned jointly by City and the Consortium.
- 4.4 The City shall promote and market the Centre internally to Johannesburg Metro personnel and to the citizens of Johannesburg.
- 4.5 The City shall manage a PUP for active members at Dobsonville
- 4.7 The City shall forward a qualified Biokineticist (Mr Nathi Goba)

5. RESPONSIBILITIES OF THE CONSORTIUM

The Consortium shall:

- 5.1 Assist with the marketing of the Centre.
- 5.2 Provide necessary academic support for the rehabilitation programme in the form of suitably qualified professionals.
- 5.3 Promote and support research into conditions and diseases prevalent in users of the Centre.
- 5.4 Pay salaries and benefits of any personnel additional to those referred to in 4.1;
- 5.5 Make available the Centre for the purpose of rendering health promotion and rehabilitation for the following conditions.
 - 5.5.1 Cardiovascular disease;
 - 5.5.2 Stroke;
 - 5.5.3 Chronic pulmonary disease;
 - 5.5.4 Any other conditions requiring rehabilitation as considered appropriate by the Consortium from time to time;
- 5.6 The consortium shall make space available for the dispensing of chronic medication

by the city, under the PUP program.

5.7 The Consortium shall host the Biokineticist on the timetable and labour prescripts as per COJ labour laws to train and educate the clients of Ekhaya Health and Fitness Gym

5.6 Insure all equipment listed in Annexure B and pay for the third party liability insurance for the centre.

6. **MANAGEMENT OF THE CENTRE**

6.1 The management committee for the Centre shall consist of:

6.1.1 The Manager of the Ekhaya Health and Fitness Centre who shall be reviewed on an annual basis, drawn from the staff of any of the parties to this agreement.

6.1.2 The Director of the Consortium;

6.1.3 One City representative.

6.2 The management committee shall:

6.2.1 Be considered to have a quorum if there is a minimum of three (3) members present: Of these there must be at least one from the City.

6.2.2 Make a decision by simple majority vote; the Chairperson is to have a deliberative and casting vote.

6.3 The functions of the management team include the following:

6.3.1 To consider all financial issues.

6.3.2 To determine the policy and fee structure with regards to the Ekhaya Health and Fitness Centre.

6.3.3 To review all marketing materials.

6.3.4 To be responsible for the recommendation for the appointment of new personnel.

6.3.5 To submit an annual report to the Parties.

7. **BANKING ACCOUNTS**

The Consortium shall provide monthly financial and narrative reports to the City.

8. **BOOKS AND RESOURCES**

Books shall be audited annually and the Parties shall have access to the audited financial statements.

13.1.4 The equipment shall be returned to the parties as specified in Annexure B

14. WHOLE AGREEMENT, NO AMENDMENT

- 14.1 This Agreement represents the entire agreement between the Parties with respect to its subject matter, and supersedes all previous agreements or arrangements, whether oral or written, between the Parties and it is recorded that there are no other representations, understandings, or agreements between the Parties relative to such subject matter.
- 14.2 No amendment or consensual cancellation of this Agreement or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement and not settlement of any disputes arising under this Agreement and not extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by the Parties, any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 14.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against any party in respect of its right under this Agreement, nor shall it operate so as to preclude such party thereafter from exercising its right strictly in accordance with this Agreement.

15. INDEMNITY

The Parties shall indemnify each other in respect of any claim, loss costs or damage of whatsoever nature or injury (including fatal injury) that may be incurred as result of negligence by its employees, third party, and all action or legal proceedings that may arise by reason of such partnership.

16. SEVERABILITY

Each provision of this Agreement is severable from the other provisions. Should any provision be found by a court of competent jurisdiction to be invalid or unenforceable for any reason, the Parties will consult with one another in good faith in order to agree, if possible, an alternative provision in accordance with the intent and tenor of this Agreement. The remaining provisions of this Agreement shall nevertheless remain binding and continue with full force and effect.

17. **CONSORTIUM TO JURIDISCTION**

All Parties hereby consent to the jurisdiction of the Magistrate's Court in respect of any action or proceedings arising from this Agreement, provided that either Party shall at all times be entitled to institute any such action or proceedings in the High Court having jurisdiction.

18. **CESSION AND NON-ASSIGNMENT**

Other than where expressly provided in this Agreement, no Party shall assign or cede any of its rights or delegate any of its responsibilities under the Agreement without the express prior written consent of the other Parties.

19. **GOVERNING LAWS**

This Agreement, its meaning, interpretation, and the relationship between the Parties shall be governed by South African Law.

20. **LEGAL COSTS**

Save as otherwise expressly provided in this Agreement, each Party bears and pays its own costs of and incidental to the negotiation, preparation, drafting, execution, settling, signing and implementation of this Agreement, any agreement ancillary to this Agreement and any documentation ancillary to this Agreement.

21. **DOMICILIUM CITANDI ET EXECUTANDI**

The Parties choose as their *domicilia citandi et executandi* for all purposes under this agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the following addresses:

- 21.1 c/o Group Head:Legal and Contracts
Third Floor, A Block
Metropolitan Centre
158 Loveday Street
Braamfontein
JOHANNESBURG
2000

21.2 Ekhaya Health and Fitness Consortium

~~11~~ T/A REVOLIFE
Northwinds Street
Dobsonville Stadium

Signed 09/11/ at CoJ Health Department on 2020.

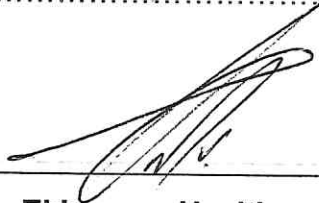
For City of Johannesburg Metropolitan Municipality who warrants that he is duly authorized hereto.

As Witness:



- 1.
- 2.

Thus done and signed on 09/11/ 2020 2020.



For Ekhaya Health and Fitness Consortium who warrants that he is duly authorized hereto.

As Witness:

- 1.
- 2.