



THE SOUTH AFRICAN MEDICAL ASSOCIATION NPC

Registration number: 1927/000136/08

MEMORANDUM OF INCORPORATION

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1 DEFINITION AND INTERPRETATION

- (1) In this Memorandum of Incorporation, unless the context otherwise requires:
- (i) **"Act"** means the *Companies Act, No. 71 of 2008*, together with any regulations published in terms thereof or any successor act;
 - (ii) **"Annual general meeting"** means the specific meeting of SAMA members in terms of section 61(7) of the Companies Act, where the bear minimum business set out in section 61(8) is conducted.
 - (iii) **"Board"** means the board of Directors of the Company;
 - (iv) **"Branch"** means a structure formed for Members which the Board has deemed to be a branch;
 - (v) **"Chairperson"** means the chair of the Board;
 - (vi) **"CIPC"** means the Companies and Intellectual Property Commission established in terms of section 185 of the Act;
 - (vii) **"Commissioner"** means the Commissioner for the South African Revenue Service, as defined in the Income Tax Act;
 - (viii) **"Company"** means The South African Medical Association NPC, registration number 1927/000136/08, a non-profit company incorporated in accordance with the laws of South Africa;
 - (ix) **"Connected Persons"** means connected persons as defined in the Income Tax Act;
 - (x) **"Director"** means a member of the Board;
 - (xi) **"Income Tax Act"** means the *Income Tax Act, 1962* or any successor act;
 - (xii) **"Member"** means a person who holds membership in, and specified rights in respect of, the Company and who is registered as such in the Company's members register, irrespective of their category of membership, and **Membership** has a corresponding meaning;
 - (xiii) **"Members meeting"** means any meeting of SAMA members who are entitled to exercise voting rights in relation to specific matters as reserved for members in the Companies Act and includes the annual general meeting.
 - (xiv) **"Office Bearer"** means a member who holds a position in any structure of the Company, i.e. Committee, Branch etc. in accordance with the provisions of this Memorandum of Incorporation;
 - (xv) **"Officer"** means any person who, within any company or organisation, performs any function as designated by the Minister in terms of the Act;
 - (xvi) **"Remuneration"** means remuneration as defined in the Fourth Schedule of the Income Tax Act;
 - (xvii) **"South Africa"** means the Republic of South Africa;
 - (xviii) **"Student"** means a person not yet qualified and registered as such with the Health Professions Council of South Africa in terms of the Health Professions Act, 56 of 1974.
- (2) All references to "section/s" in this Memorandum of Incorporation refer to the sections of the Companies Act unless the context indicates otherwise.
- (3) The headings are for reference purposes only and shall not affect the interpretation of this Memorandum of Incorporation.

- (4) Words in the singular number shall include the plural, and words in the plural number shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not).
- (5) Words that are defined in the Companies Act bear the same meaning in this Memorandum of Incorporation as in that Act.
- (6) If any term is defined within the context of any particular clause in the Memorandum of Incorporation, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Memorandum of Incorporation, notwithstanding that that term has not been defined in this interpretation provision.
- (7) If the provisions of this Memorandum of Incorporation are in any way inconsistent with the unalterable provisions of the Companies Act, the provisions of the Companies Act shall prevail.
- (8) The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this Memorandum of Incorporation.
- (9) When a particular number of Business Days is provided for between the happening of one event and another, the number of days must be calculated by:
 - (i) excluding the day on which the first such event occurs;
 - (ii) including the day on or by which the second event is to occur; and
 - (iii) excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in clauses 1.9(i) and 1.9(ii) respectively.
- (10) The schedules to this Memorandum of Incorporation, if any, form an integral part hereof and words and expressions defined in this Memorandum of Incorporation bear, unless the context otherwise requires, the same meaning in such schedules.

2 CONFLICTS WITH THE MEMORANDUM OF INCORPORATION

If there is a conflict between any provision of this Memorandum of Incorporation and:

- (1) an alterable provision of the Act, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict and the extent permitted by the Act;
- (2) an unalterable provision of the Act, the unalterable provision of the Act shall prevail to the extent of the conflict.

3 INCORPORATION AND NATURE OF THE COMPANY

3.1. Incorporation

- (1) This Memorandum of Incorporation was adopted by the Members of the Company, in accordance with the provisions of section 13(1) of the Act.
- (2) The Company is incorporated in accordance with, and governed by
 - (i) the unalterable provisions of the Act, that are applicable to non-profit companies, as contained in Schedule 1 of the Act;
 - (ii) the alterable provisions of the Act that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in this Memorandum of Incorporation; and
 - (iii) the provisions of this Memorandum of Incorporation.

3.2 Powers of the Company

- (1) This Memorandum of Incorporation:
 - (i) contains certain restrictive conditions applicable to the Company; and
 - (ii) does not prohibit the amendment of any particular provision hereof.
- (2) The Company has all of the legal powers and capacity of an individual, as contemplated in the Act, to the extent possible, subject to any restrictions, limitations or qualifications arising from this Memorandum of Incorporation.

3.3 Objects of the Company

- (1) The Company is a non-profit professional body established for the benefit of the Members, with the following objects:
 - (i) to strive to promote, maintain and enhance the highest standards of the medical profession with authority and credibility, collectively and individually, in all medical related matters;
 - (ii) to promote and enhance highest standards of professional conduct of Members, and for this purpose to exercise professional supervision and disciplinary powers over Members;
 - (iii) to provide Members with continued professional development and knowledge;
 - (iv) to prepare and publish journals and other relevant medical publications;
 - (v) to provide an effective and advocacy voice for the medical profession as to influence and improve the healthcare environment;
 - (vi) to extend assistance by means of grants, allowances, donations, gratuities, fees, funding or otherwise for projects, studies, research commissions and / or investigations for social needs and aspects pertaining to the delivery of health care to society;
 - (vii) to provide relief, where possible, by way of grants, donations, annuities or other means to members, dependents of members, deceased members of SAMA as well as non-members of SAMA who are or were duly registered medical practitioners within the Republic of South Africa;
 - (viii) to interact with other National and International professional organisations with similar basic/fundamental objectives; and
 - (ix) to do all such things as the Board determines, through the guidance, where possible, from members, would be in the furtherance of the objects set out above.
- (2) The objects of the Company are limited to those as set out in this clause 3.3 and, except to the extent necessarily implied by the stated objects, the purposes and powers of the Company are subject to the restrictions or limitations as contained in this Memorandum of Incorporation.

3.4 Use of assets and funds

Subject to clause 3.5, the income, property, funds and assets of the Company, however derived, must be applied solely towards the promotion of its stated objects as set out in this Memorandum of Incorporation and the Company may not directly or indirectly distribute any of its funds or assets to any person other than in the course of furthering its objectives or in terms of clause 8.4.

- (1) **Activities**

- (i) Substantially the whole of the activities of the Company must be directed to the furtherance of its objects and not for the specific benefit of an individual Member or minority group.
- (ii) The Company may not have a share or other interest in any business, profession or occupation which is carried on by its Members.
- (iii) The Company must not knowingly become a party to, or permit itself to be used as part of an impermissible avoidance arrangement contemplated in Part IIA of Chapter III of the Income Tax Act, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act.
- (iv) The Company shall not accept any donation in respect of which the donor imposes any condition which could enable him or any connected person in relation to him, as defined in the Income Tax Act, to derive some direct or indirect benefit from the application of such donation.
- (v) The Company shall not accept 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 condition of such donation.
- (vi) The Company shall, to the extent that it provides funds to any association of persons carrying out a public benefit activity, as defined in the Income Tax Act, take reasonable steps to ensure that the funds are utilised for the purpose for which they have so been provided.
- (vii) The Company may not provide a loan to, or in any way facilitate the lending of funds by a third party to any office bearer of the Company or a related or inter-related company, or a person related to any such office bearer. Nor may the Company enter into any indemnity, guarantee and/or suretyship or secure payment thereunder in any way.

3.5 Payments by the Company

- (1) The Company may not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless how the income or asset was derived, to any person who is or was an incorporator of the Company, or who is a Member or Director, of the Company, except:
 - (i) as reasonable or necessary Remuneration for goods delivered or services rendered to, or at the direction of the Company;
 - (ii) as payment of, or reimbursement for, expenses incurred to advance a stated object of the Company,
 - (iii) as payment of an amount due and payable by the Company in terms of a bona fide agreement between the Company and that person or another;
 - (iv) in respect of any rights of that person, to the extent that such rights are administered by the Company in order to advance a stated object of the Company; or
 - (v) in respect of any legal obligation binding on the Company.
- (2) No Remuneration will be paid to any Director, employee, office bearer or Member of the Company or other person, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.

3.6 Funding

Substantially the whole of the Company's funding will be derived from its Members and Students or from an appropriation by the government of South Africa in the national, provincial or local sphere.

3.7 Compliance with Section 30B of the Income Tax Act

- (1) The Company will submit to the Commissioner a copy of this Memorandum of Incorporation and any amendment to this Memorandum of Incorporation.
- (2) The Company will comply with such reporting requirements as may be determined from time to time by the Commissioner.

3.8 Memorandum of Incorporation

- (1) This Memorandum of Incorporation of the Company may be altered or amended:
 - (i) in compliance with a court order effected by a resolution of the Company's Board;
 - (ii) by a special resolution of the Members but subject to that special resolution having been proposed by (i) the Board, or (ii) by at least 10% of Members.
- (2) An amendment contemplated in clause 3.8(1)(ii) may take the form of:
 - (i) a new Memorandum of Incorporation in substitution for the existing Memorandum of Incorporation; or
 - (ii) one or more alterations to the existing Memorandum of Incorporation by:
 - (a) changing the name of the Company;
 - (b) deleting, altering or replacing any of its provisions;
 - (c) inserting any new provisions; or
 - (d) making any combination of such alterations.
- (3) After amending its Memorandum of Incorporation, the Directors of the Company must file a Notice of Amendment with the CIPC in accordance with the requirements contemplated in sections 16(7).
- (4) An amendment to this Memorandum of Incorporation takes effect:
 - (i) in the case of an amendment that changes the name of the Company, on the date set out in the amended registration certificate issued by the CIPC; or
 - (ii) in any other case, on the later of:
 - (a) the date on, and time at, which the CIPC accepts the filing of the Notice of Amendment; or
 - (b) the date, if any, set out in the Notice of Amendment.
- (5) A copy of all amendments to this Memorandum of Incorporation must be submitted to the SARS Commissioner within 30 days of its amendment.

3.9 Alterations of Memorandum of Incorporation, translations and consolidations of Memorandum of Incorporation

- (1) The Company's Board, or an individual authorised by the Board, may alter the Company's Memorandum of Incorporation, in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document, by:
 - (i) delivering a notice of the alteration to every Member by hand, by ordinary mail (at such Member's registered address) or by publishing in the press in a newspaper circulating in the area in which the Company's registered office is located. Alternatively, delivery may be by email, provided that the Member has given the Company an email address for the purposes of receiving communications; and
 - (ii) filing a notice of the alteration with the CIPC.

- (2) At any time after having filed its Memorandum of Incorporation with the CIPC, the Company may file one or more translations of it, in any official language or languages of the Republic, provided that every such translation must be accompanied by a sworn statement by the person who made the translation, stating that it is a true, accurate and complete representation of the Memorandum of Incorporation.
- (3) At any time after having filed its Memorandum of Incorporation with the CIPC, and having subsequently filed one or more alterations or amendments to it, the Company may (or if the CIPC requires it to, must) file a consolidated revision of its Memorandum of Incorporation, as so altered or amended, provided that every such consolidated revision filed with the CIPC in terms of clause 3.9(3) must be accompanied by:
 - (i) a sworn statement by a Director; or
 - (ii) a statement by an attorney or notary public,stating that it is a true, accurate and complete representation of the Company's Memorandum of Incorporation, as altered or amended up to the date of the statement.

3.10 Company Rules

- (1) The Board may, subject to the provisions of section 15(4) of the Act, make, amend or repeal any necessary or incidental Rules relating to the governance of the Company in respect of matters that are not addressed in the Act or this Memorandum of Incorporation, and the authority of the Board in this regard is not limited or restricted in any manner by this Memorandum of Incorporation
- (2) The Company shall publish a copy of those Rules and a notice of any alteration to those Rules in accordance with section 17(1) of the Act or in such other manner as may be required by those Rules.

3.11 Application of optional provisions of the Act

The Company elects to only comply with the provisions of Chapter 3 of the Companies Act, 2008 in terms of Section 34(2) thereof insofar as it is obliged to in terms of its Public Interest Score.

3.12 Non-profit company provisions

- (1) The Company is a non-profit; and
 - (i) must apply all of its assets and income, however derived, to advance its stated objects, as set out in this Memorandum of Incorporation; and
 - (ii) subject to clause (i) may:
 - (a) acquire and hold securities issued by a profit company; or
 - (b) directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to the Company's stated objects.

4 MEMBERS

4.1 Membership

- (1) The Company has two classes of Members, namely voting and non-voting members.
- (2) Membership of the Company is limited to natural persons.
- (3) The criteria for the admission of members will be determined by the Board.

- (4) Notwithstanding any provision to the contrary, any person disqualified from being a member of the Health Professionals Council of South Africa will also be disqualified from being a member.
- (5) An application for Membership in the Company will be made to the Membership department, in writing, in the form prescribed from time to time, which shall contain at least the following:
 - (i) a statement that the applicant agrees to abide by the Memorandum of Incorporation, including the aims and objectives of SAMA and all policies, procedures and governance documents of the company; and
 - (ii) an undertaking to pay the prescribed subscription fee.
- (6) A person may only be admitted as a Member if they agree, in writing, to be bound by this Memorandum of Incorporation, the Membership terms and conditions and any additional governance documents that are adopted from time to time.

4.2 Voting members

Full member

- (1) Any legally qualified medical practitioner residing within the Republic of South Africa at the time of application for Membership who is or has at some stage been registered under Section 17 of the Health Professions Act, 56 of 1974, or any later succeeding enactment thereof, shall qualify for Full Membership.

Life-time member

- (2) Members who have been Members of SAMA for 40 (forty) years uninterrupted, shall automatically become Life-time Members, provided that the designated committee from time to time may, if circumstances justify it, and according to its discretion, recommend to the Board the granting of Life-time Membership to a Member who does not meet the 40 (forty) years requirement.

4.3 Non-voting members

Student member

- (1) Any medical student at the time of application for Membership who is registered in terms of the Regulations relating to the Registration of Students, Undergraduate Curricula and Professional Examinations in Medicine, in terms of Section 61(1) of the Health Professions Act, 56 of 1974, or any later succeeding enactment thereof, shall qualify for Student Membership.

Expatriate member

- (2) Any legally qualified medical practitioner residing outside the Republic of South Africa and who is registered with an appropriate regulatory body in South Africa or registered with an equivalent recognised body outside the Republic of South Africa, at the time of application for Membership, shall qualify for Expatriate Membership.
- (3) A Full and/or Life-time Member who will temporarily be residing outside the Republic of South Africa may apply to the relevant committee, through the Membership Department, to become an Expatriate Member, in terms of the prescribed process, from time to time.
- (4) Expatriate Members who are resident outside of the borders of the Republic of South Africa are entitled to the same benefits and membership privileges as a full and/or Life-time Member, except for voting rights.

Honorary member

- (5) Any Member of SAMA may nominate an individual to become an Honorary Member by submitting their name and written motivation for the nomination, to the designated committee from time to time. .
- (6) Any member may nominate prominent scientists, qualified medical practitioners, and other persons residing within or outside the Republic of South Africa, as an Honorary Members, if they have made valuable contributions to the advancement of medical science or to the welfare and benefit of SAMA.
- (7) Nominations to become an Honorary Member must be submitted to the designated Committee, in writing and contain a motivation for the nomination.
- (8) If, after following a vetting process, the designated Committee accepts the nomination, the individual is recommended as an honorary member for acceptance, by the Board.
- (9) A Member thus elected shall be an Honorary Member and become such as soon as his/her written acceptance of his/her election has been received by the Chief Executive Officer.
- (10) Honorary Members are entitled to the same benefits and membership privileges as a full, and/or Life-time Member, except for voting rights.

4.4 Rights and obligations of members

- (1) The rights and obligations of a Member are personal to the Member concerned and will not be transferable. Every Member must further the objects and interests of the Company to the best of his or her ability.
- (2) Each Member must uphold the provisions of the Memorandum of Incorporation and all policies, procedures and governance documents of the Company.
- (3) Every Member must furnish particulars of their private and business addresses and of the business position occupied, and any changes, to the Company.
- (4) Every Member must pay to the Company, when due, all contributions, fees, fines and levies of subscriptions for which the Member may be liable, in accordance with this Memorandum of Incorporation.
- (5) The right to participate in and the right to enjoy the benefits of the general activities of the Company, provided that in the case of Life Members a nominal amount, as may be determined by the Board from time to time, be payable should they elect to receive any of the publications of the Company.

4.5 Termination or suspension of Membership

Termination

- (1) A member's membership of the Company will terminate:
 - (i) upon the death of a member; or
 - (ii) upon receipt of a member's written resignation by the Chief Executive Officer, Company Secretary, Membership department and/or Branch administration; or
 - (iii) if the member is convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount; or
 - (iv) forfeiture as a result of any disciplinary action against him/her of any medical qualifications which he/she may possess.
- (2) In respect of **non-payment of subscription fees**, a member's membership of the Company will be terminated, following the Membership Department internal process, from time to time, if:
 - (i) in respect of a member who pays annual membership fees and the annual membership

- fee has not be paid on or before 31 March of the year in which it becomes payable; and
- (ii) in respect of a member who pays membership fees on a monthly basis and that monthly membership fee is dishonoured.

Suspension

- (3) A Members membership may be suspended, by the Board, pending the outcome of a disciplinary hearing instituted in terms of the Company's Members Disciplinary Procedures
 - (i) in respect of any breach of the SAMA Members Code of Conduct;
 - (ii) in the event that that a Member's membership of the Health Professions Council of South Africa is for any reason suspended; and
 - (iii) in the event that a Member is removed from any medical register within the Republic of South Africa or any other independent country in the world by reason of professional misconduct.
- (4) A member forfeits all claims to the benefits, rights and privileges of membership upon suspension of their membership.

4.6 Register of Members

The Company will maintain a register of Members as required by section 24.

4.7 Members' right to information

Other than the rights of access to information set out in section 26, a Member has no further rights to information pertaining to the Company.

4.8 Members authority to act

- (1) If, at any time, every Member is also a Director, the authority of the Members to act on any matter that is required to be referred by the Board to the Members, for decision at any time after being referred by the Board, without notice or compliance with any other internal formalities, is not restricted or varied by this Memorandum of Incorporation.
- (2) A resolution which could be voted on at a Members meeting may instead be adopted by written consent of the Members, given in person or by electronic communication, provided that the resolution was submitted for consideration to the Members and the resolution is voted on in writing or by electronic communication by such Members within 20 business days after the resolution was submitted to them.
- (3) Any Member who is in arrears in the payment of any membership fee to the Company or any portion thereof will not be entitled to be present or vote at any Member meeting on any question, or upon any poll, or to be reckoned in a quorum.

4.9 Membership fees

- (1) The Board may fix and determine, from time to time, the membership fees payable by Members, and may recommend to a Members meeting other fees and assessments.
- (2) The membership fees will be determined annually by the Board on the advice of the Chief Executive Officer and/or the Chief Financial Officer.
- (3) The Board may exercise its power to levy membership fees on a differentiated basis so as to the effect that members of the same category be charged different amounts of membership fees if in the opinion of the Board, circumstances so require.

- (4) The Board may waive Membership fees for long standing members who, in the Board's sole discretion, has rendered long and sustained service of a high quality to the Company.
- (5) The Board may, in cases of ill health, misfortune, advanced age or on any other grounds, in its opinion sufficient, remit all or part of the membership fees and arrears if any, of any Member, or authorise the payment of fees at a reduced rate. In such cases, that Member does not cease to be a Member.
- (6) A member remains liable for any membership fees which are in arrears on the date of termination of his/her membership.

4.10 Votes of Members

Each voting Member will have one vote and each such vote will, unless otherwise provided in this Memorandum of Incorporation, be of equal value to the vote of each other voting Member on any matter to be determined by the Members.

4.11 Proxies and voting under power of attorney

- (1) A Member may, at any time, appoint another SAMA member, in good standing, as a proxy to:
 - (i) participate in, and speak and vote at, a Members meeting on behalf of the Member; or
 - (ii) give or withhold written consent on behalf of the Member to a decision by Members acting other than at a meeting.
- (2) The instrument that appoints a proxy must:
 - (i) be in writing, dated and signed by the Member;
 - (ii) be given by the person appointing such proxy or by their attorney duly authorised in writing.
- (3) The holder of a power of attorney from a Member may, if so authorised by the power of attorney, vote for and represent such Member at any meeting of the Company.
- (4) Every instrument of proxy, whether for a specified meeting or otherwise, must comply with section 58 of the Act and subject thereto be in the following format, or in such other form as the Company's Board may approve, and the Board may, if it thinks fit, send out with the notice of any meeting proxy forms for use at the meeting:

*"I..... (full name of member),
of (address of member),
being a member of the Company and entitled to vote, hereby appoint*

- (i) (name of proxy) or
- (ii) *the duly appointed Chairperson of the Company or failing him or her the duly appointed Chairperson of the meeting*

as my / our proxy to:

[participate in, and speak and vote for me at a Members meeting of the Company to be held at on 20..... at (time appointed) and at any adjournment thereof.] or*

*[give or withhold written consent on my behalf to the written resolutions to which this form of proxy is attached, as contemplated in section 60 of the Act.]**

*** Delete as applicable**

Please indicate with an "X" in the appropriate space below how you wish your vote/s to be cast. If you return this form duly signed, without any specific directions, the proxy shall be entitled to vote as he/she thinks fit.

Resolutions	In favour	Against	Abstain
Resolution No. 1			
Resolution No. 2			

Dated this day of 20.....

*.....
Signature*

Membership Number.....

Telephone number.....

4.12 Representation by concurrent proxies

A Member may only appoint one person at a time as their proxy.

4.13 Authority of proxy delegate

A Member's proxy shall not have the authority to further delegate such proxy's powers to another person.

4.14 Requirement to deliver proxy instrument to the Company

The instrument of proxy or power of attorney appointing a proxy for any particular meeting must be delivered to the Company at its registered address, by e-mail, courier or registered mail not less than 48 hours (In calculating the 48 hour period, Saturdays, Sundays, and public holidays shall not be taken into account) before such meeting is due to take place, or the instrument of proxy or power of attorney will not be treated as valid.

4.15 Deliberative authority of proxy

The authority of a Member's proxy to decide without direction from the Member whether to exercise, or abstain from exercising, the voting right of the Member, except to the extent that the instrument appointing that proxy provides otherwise, is not restricted or varied by this Memorandum of Incorporation.

4.16 Validity of appointment

- (1) The proxy appointment remains valid only for its intended purpose, provided that it may be revoked at any time by cancellation in writing, or the making of a later inconsistent appointment of another proxy, and delivering a copy of the revocation instrument to the proxy, and to the Company.
- (2) The appointment of a proxy is suspended at any time and to the extent that the Member chooses to act directly and in person in the exercise of any rights as a Member.
- (3) A vote given in accordance with the terms of an instrument of proxy or power of attorney appointing a proxy will be valid notwithstanding the legal incapacity of the Member or revocation of the instrument or power of attorney unless notice in writing of such legal incapacity or, revocation is received by or on behalf of the Company not less than twenty four hours (or such lesser period as the Board may determine in relation to any particular meeting) before the time appointed for holding the meeting.

4.17 Record date for exercise of Member rights

- (1) If, at any time, the Company's Board fails to determine a record date for any action or event, the record date for the relevant matter is:
 - (i) in the case of a meeting, the latest date by which the Company is required to give Members notice of that meeting; or
 - (ii) in any other case, the date of the action or event.

5 MEMBERS MEETINGS

5.1 Requirement to hold meetings

The Company is not required to hold any Members meetings other than those specifically required by section 61 and this clause 5, but may do so.

5.2 Members' right to requisition a meeting

- (1) The right of Members to requisition the Company's Board to call a Members meeting may be exercised if, in aggregate, written and signed demands for a meeting with substantially the same purpose are made by at least 10% of the Members entitled to vote, provided that each such demand describes the specific purpose for which the meeting is proposed.
- (2) The Board shall within fifteen (15) business days of receipt of the demand issue a notice to members convening Members meeting for a date not less than fifteen (15) business days and not more than twenty eight (28) business days calculated from the date of the notice.

5.3 Location of Members meetings

The Authority of the Company's Board of Directors to determine the location of any members meeting is limited to the extent that such a meeting must be convened within the borders of the Republic of South Africa.

5.4 Calling a Members meeting

If the Company is unable to convene a Members meeting because it has no Directors or because all of its Directors are incapacitated, any Member may convene a meeting.

5.5 Notice of Members meetings

- (1) The minimum number of days for the Company to deliver a notice of a Members meeting to the Members is fifteen (15) business days before the meeting is to begin.
- (2) A notice of a Members meeting must be in writing and include the information set out in sections 62(3) and 63(3).
- (3) An immaterial defect in the form or manner of giving notice of a Members meeting, or an accidental or inadvertent failure in the delivery of the notice to any particular Members to whom it was addressed, does not invalidate any action taken at the meeting.

5.6 Electronic participation in Members meeting

The authority of the Company to conduct a Members meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, provided that the electronic communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the meeting, is not restricted or varied by this Memorandum of Incorporation.

5.7 Annual General Meeting

- (1) The Company must hold an Annual General Meeting once in every calendar year, but no more than 15 months after the date of the previous annual general meeting.
- (2) In addition to the requirements of clause 5.5, the notice calling an annual general meeting must include:
 - (i) the financial statements to be presented, or a summarised form thereof; and
 - (ii) directions for obtaining a copy of the complete annual financial statements for the preceding financial year.
- (3) At the Annual General Meeting the following matters must be dealt with and disposed of:
 - (i) presentation of the Directors' report and audited financial statements (if applicable) for the immediately preceding financial year;
 - (ii) election of non-executive Directors;
 - (iii) the appointment of the auditors for the ensuing financial year (if applicable);
 - (iv) any matters placed on the agenda by the Board; and
 - (v) any matters raised by Members, with or without advance notice to the Company.

5.8 Quorum for Members meetings

- (1) Subject to the provisions of clause 5.8(2) to clause 5.8(6) (both inclusive), the quorum for:
 - (i) a Members meeting, including the Annual General Meeting, to begin is at least one hundred and fifty (150) Members, entitled to vote, are present (in person or by proxy); and
 - (ii) any matter to be decided at a Members meeting, including the Annual General Meeting, may not begin to be considered and decided unless at least one hundred and fifty (150) Members, entitled to vote, are present (in person or by proxy) at the time that the matter is called on the agenda.
- (2) In accordance with clause 5.8(1), where the Company has more than two Members, a meeting may not begin, or a matter begin to be considered, unless the requirements of clause 5.8(1) are satisfied.

- (3) If, within thirty (30) minutes after the appointed time for a meeting to begin, the requirements of clauses 5.8(1), or 5.8(2) if applicable:
 - (i) for that meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, for one week; and
 - (ii) for consideration of a particular matter to begin have not been satisfied:
 - (a) if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
 - (b) if there is no other business on the agenda of the meeting, the meeting is adjourned for one week, without motion or vote.
- (4) The person intended to preside at a meeting, where the quorum requirements in clause 5.8(1), or clause 5.8(2) if applicable, are not satisfied, may extend the 30-minute limit allowed for a reasonable period on the grounds that:
 - (i) exceptional circumstances affecting weather, transportation or electronic communication have impeded, or are impeding, the ability of Members to be present at the meeting; or
 - (ii) one or more delayed Members have communicated an intention to attend the meeting, and those Members, together with others in attendance, would satisfy the quorum requirements; or
 - (iii) any other reason such person considers appropriate.
- (5) If the quorum requirements in clause 5.8(1), or clause 5.8(2), if applicable, have not been satisfied at the time appointed for a postponed meeting to begin, or for an adjourned meeting to resume, the Members present in person or by proxy will be deemed to constitute a quorum.

5.9 Adjournment of Members meetings

- (1) Subject to clauses 5.8, 5.9(2) and 5.9(3), a Members meeting or the consideration of any matter at the meeting, may be adjourned from time to time, on a motion supported by a majority of Members present at the meeting at the time.
- (2) An adjournment of a meeting, or the consideration of a matter at the meeting, in terms clause 5.9(1), may be either to a fixed time and place or until further notice, as agreed at the meeting.
- (3) A meeting may not be adjourned beyond the earlier of:
 - (i) One hundred and twenty (120) business days after the record date determined in accordance with clause 4.17; or
 - (ii) Sixty (60) business days after the date on which the adjournment occurred.

5.10 Voting at Members meetings

- (1) Voting may either be by show of hands, or by polling.
- (2) A polled vote must be held on any particular matter to be voted on at a Members meeting if a demand for such a vote is made by at least ten (10) persons having the right to vote on that matter, either as a Member or a proxy representing a Member.
- (3) A declaration by the chair of the Members meeting that a resolution has been carried together with an entry to that effect in the meeting's minutes is conclusive evidence of the fact, without requiring proof of the number or proportion of the votes recorded in favour of or against such resolution.
- (4) If a poll is duly demanded, it shall be taken in such a manner as the Chairperson directs and the result of the poll shall be deemed to be the resolution of the Members meeting at which the poll

was demanded. The Chairperson of the Members meeting may appoint scrutineers to determine the result of the poll.

- (5) A poll demanded on the question of adjournment, is taken forthwith. A poll demanded on any other question is taken at such time as the Chairperson of the Members meeting directs and no notice need be given of a poll not taken immediately. The demand for a poll shall not prevent the continuation of a Members meeting for the transaction of any business other than the question upon which the poll has been demanded.
- (6) Each person who is entitled to vote on a resolution proposed at a Members meeting and is present by person or by proxy is entitled to one (1) vote on that resolution.
- (7) On a poll at a Members meeting each person who is present, whether in person or by proxy, is entitled to one (1) vote on a resolution proposed at that meeting.
- (8) In the case of a tie in the voting, the Chairperson of the meeting shall have a second or casting vote.

5.11 Chairperson

The President by virtue of office, will take the chair or in his or her absence, or if he or she is not willing to act, the Chairperson of SAMA will take the chair at every Members meeting of the Company and if at any meeting no person entitled to take the chair is present within ten minutes after the time appointed for holding such meeting or if all such persons present decline to take the chair, then the Members present will choose one of their number to be the Chairperson.

6 MEMBERS ACTING OTHER THAN AT A MEETING

6.1 Members resolutions

- (1) A Members resolution that could be voted on at a Members meeting may instead be voted on in writing, via a resolution if:
 - (i) the resolution is submitted to all Members; and
 - (ii) is thereafter voted on in writing by the Members within twenty (20) business days after the resolution was submitted to them.
- (2) A resolution contemplated in clause 6(1) will have been adopted if it is supported by sufficient Members to have been adopted as an ordinary resolution or special resolution, as the case may be, at a properly constituted Members meeting and if adopted, has the same effect as if it had been approved by voting at a Members meeting.
- (3) Within ten (10) business days after adopting the resolution as set out in clause 6(1), the Company must deliver a statement describing the results of the vote to every Member who was entitled to vote on the resolution.
- (4) The written resolution, as set out in clause 6(1), will be deemed (unless a statement to the contrary is made in that resolution) to have been passed on the last day on which that resolution is signed by any one or more of the Members. The written resolution may consist of two or more documents in the same form, each of which is signed by one or more such Members, as the case may be.
- (5) For an ordinary resolution to be approved by Members, it must be supported by the votes of more than fifty percent (50%) of the Members present (in person or by proxy) and entitled to vote.
- (6) For a special resolution to be approved by Members, it must be supported by the votes of at least sixty six percent (66%) of the Members present (in person or by proxy) and entitled to vote.

- (7) A special resolution adopted at a members meeting is not required for a matter to be determined by the Company, except those matters set out in Section 65(11).
- (8) The quorum for both ordinary and special resolutions is as set out in clause 5.8(1).

7 DIRECTORS AND OFFICERS

7.1 Composition of the Board

- (1) The Company will have a minimum of eight (8) and a maximum of 15 (fifteen) directors.
- (2) The Chief Executive Officer serves as an *ex officio* executive director in addition to any directors appointed or elected in terms of this Memorandum of Incorporation.
- (3) The board may from time to time in its sole discretion identify other executive positions that qualify for *ex officio* membership of the Board.
- (4) The Company will at all times have at least three (3) directors who are not connected persons in relation to each other to accept the fiduciary responsibility of the Company.
- (5) A director may resign from office by notice in writing to the Board.

7.2 Appointment, nomination and election of non-executive Directors

- (1) Subject to clause 7.1(1) the board may in its sole discretion co-opt and appoint additional non-executive directors to its number between Annual General Meetings, provided that the number of non-executive directors never exceeds the maximum number of directors provided for in this Memorandum of Incorporation.
- (2) Any casual vacancy occurring on the Board between Annual General Meetings may be filled by the board if the number of remaining directors is at the minimum or above, but must be filled by the board if the number of remaining directors falls below the minimum.
- (3) A non-executive director co-opted and appointed must be a person who satisfies the requirements for election as a non-executive director as set out in clause 7.3(1) and the eligibility requirements of section 69 of the Act and has all the powers, functions and duties, and is subject to all the liabilities, of any other director.
- (4) A non-executive director co-opted and appointed has all the powers, functions and duties, and is subject to all the liabilities, of any other director.
- (5) The Board must call for applications of candidates to serve as a non-executive director, whenever the Board deems fit, in the manner and in the form prescribed by the Board. The Board may review and amend the process from time to time.
- (6) A non-executive director who has been appointed by the board in terms of clause 7.2(1) and 7.2 (2) must stand down at the next Annual General Meeting and may stand for election.
- (7) Subject to clause 7.2(1) and 7.2(2), vacancies in non-executive director positions, are filled by Member elections at the Annual General Meeting.
- (8) Prior to the Annual General Meeting, the Board by notice to Members calls for the nomination of candidates in the manner and in the form prescribed by the Board. The Board may review and amend the nomination process from time to time.
- (9) A nomination will only be valid if on the day of the Annual General Meeting, the Member nominated is not under any pecuniary liability to the Company, which liability has existed for three (3) months or longer.
- (10) The Board includes in the notice of the Annual General Meeting the names of the short-listed candidates, together with their curricula vitae and such further information as the Board deems necessary to enable Members to exercise an informed vote.

- (11) The nomination of candidates by Members is subject to 7.2(9) and no nominations by Members made outside the set process are allowed.
- (12) Candidates absent from the Annual General Meeting are not eligible without having rendered prior apologies to the Company in advance of the meeting together with sound reasons for absence.
- (13) In any election of Directors, the election is to be conducted as a series of votes by anonymous poll, each of which is on the candidacy of a single individual to fill a single vacancy.
- (14) In each vote to fill a vacancy, each Member present may vote once, and the vacancy is filled only if a majority of the Members' votes support the candidate.
- (15) Each non-executive director, excluding ex officio directors, must be elected by the Members to serve for a term of four (4) years.

7.3 Eligibility requirements of non-executive directors

- (1) To become or to continue to act as a non-executive director of the Company, **except** in the case of *ex officio* directors, a person must be:
 - (i) A voting Member of the Company
 - (ii) Have at least three (3) years post qualification experience; and
 - (iii) Have served on any Branch Council or Committee of the Company for at least three (3) years.
- (2) Subject to clause 7.4(1)(viii), a person who has exceeded the aggregate term to act as a Director of the Company may again become eligible after not having served on the Board for four (4) consecutive years.

7.4 Disqualification and Removal of Individual Directors

- (1) To become or to continue to act as a Director or a prescribed officer of the Company, a person must not be:
 - (i) a juristic person;
 - (ii) an unemancipated minor, or a person under a similar legal disability;
 - (iii) a person who has been declared a delinquent or placed under probation by a court in terms of section 162 or section 47 of the *Close Corporations Act, 1984*, except to the extent permitted by the order of probation;
 - (iv) an unrehabilitated insolvent;
 - (v) prohibited in terms of any public regulation to be a Director;
 - (vi) removed from an office of trust, on the grounds of misconduct involving dishonesty;
 - (vii) a person who has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount, for theft, fraud, forgery, perjury or an offence:
 - (a) involving fraud, misrepresentation or dishonesty;
 - (b) in connection with the promotion, formation or management of a company;
 - (c) in connection with having been appointed or elected as a Director or acting as a Director whilst ineligible or disqualified, or whilst having been placed under probation by a court; or

- (d) under the Act, the *Insolvency Act, 1936*, the *Close Corporations Act, 1984*, the *Competition Act, 1998*, the *Financial Intelligence Centre Act, 2001*, the *Securities Services Act, 2004*, or Chapter 2 of the *Prevention and Combating of Corruption Activities Act, 2004*;
- (viii) except in the case of *ex officio* directors, to whom this will not apply, a person may not serve the Company as a director for a term exceeding eight (8) years in aggregate.
- (ix) any *ex officio* directors will automatically cease to be a director in the event of his suspension or resignation.
- (x) where the Membership of a Member is terminated or suspended for any reason, that Member will immediately and automatically cease to hold any office in the Company, including as a Director (either elected or *ex officio*) or as any executive officer of the Company.
- (xi) omits to declare in the manner required by the Act and further described in the SAMA Members Code of Conduct and Conflict of Interest Policy, that he/she has a material interest in any way, whether directly or indirectly, in a contract which has been entered into by the Company or which is about to be entered into, or in any financial or other matter described in said Policy.
- (xii) absent for more than twenty five percent (25%) of the Board meetings in one (1) financial year and the Board determines in its sole discretion that it is without good cause.
- (2) The Company may, at any time, remove any Director of the Company, by ordinary resolution, upon notice being given to the Director, and the Director has been afforded a reasonable opportunity to make representations as contemplated in section 71(2) of the Act, and such removal will be without prejudice to any claim the Director may have for damages or breach of any contract of service between him and the Company.

7.5 Rotation of SAMA non-executive Directors

- (1) Each year, at the Annual General Meeting, at least one third (1/3) of the non-executive directors of the Company must stand down and an election must be held to fill the vacancies created. If the number of non-executive directors is not three or a multiple of three, the number nearest to one-third (1/3), rounded down, retires from office.
- (2) Non-executive directors may stand for re-election, provided they are eligible in terms of 7.3 and 7.4 above.
- (3) Co-opted non-executive directors must stand down from office at the next Annual General Meeting after their appointment and are not counted when calculating the one third (1/3) of non-executive directors to stand down.
- (4) The non-executive directors to stand down will be those who have been longest in office since their last election. In the event of two or more non-executive directors having been in office for the same length of time, and only certain of these non-executive directors being required to stand down, the non-executive directors concerned may either between themselves agree the retiree or utilise the method of drawing lots.

7.6 Alternate Directors

The Company will not have any alternate Directors

7.7 Authority of the Board

- (1) The authority of the Company's Board to exercise all of the powers and perform any of the functions of the Company and to manage and direct the business and affairs of the Company, is not restricted or varied by this Memorandum of Incorporation.
- (2) If, at any time, the Company has only one Director, as a consequence of an unusual event, the authority of that Director to act without notice or compliance with any other internal formalities, is not restricted or varied by this Memorandum of Incorporation.
- (3) Notwithstanding that it may afterwards be discovered that there has been some defect in the appointment or continuance in office of a Director or person acting as a Director, *bona fide* decisions by the Board or by any person acting in good faith as a Director of the Company are as valid as if every such person had been duly appointed, were qualified and continued to be a Director or were entitled to vote, as the case may be.

7.8 Directors' meetings

- (1) A Director authorised by the Board of the Company:
 - (i) may call a meeting of the Board at any time; and
 - (ii) must call such a meeting if required to do so by at least:
 - (a) 25% of the Directors, in the case of a Board that has at least 12 members; or
 - (b) two Directors, in any other case.
- (2) The authority of the Board to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting, is not restricted or varied by this Memorandum of Incorporation.
- (3) Subject to the provisions of the Act, a round-robin resolution in writing adopted by the majority of Directors is as valid and effective as if it had been passed at a duly called and constituted meeting of the Board or its committee as the case may be, provided that each Director has received notice of the matter to be decided. An adopted round-robin resolution may consist of multiple hard or electronic copies of the same resolution, each signed by one or more Board members. A resolution of Directors passed in terms of this clause is presented at the next meeting of the Board or its committee as the case may be for noting and signature by the chair of that meeting in terms of the provisions of section 24 and section 73(8).
- (4) The Board may determine the form and time for giving notice of its meetings, provided that no meeting of the Board will be convened without notice to all of the Directors.
- (5) The authority of the Board to proceed with a meeting even if there was a failure to give the required notice or there was a defect in the giving of such notice, provided that all of the Directors acknowledge actual receipt of the notice or are present at the meeting or waive notice of the meeting, is not restricted or varied by this Memorandum of Incorporation.
- (6) The quorum requirement for a meeting is a majority of Directors in office.
- (7) Each Director has one vote on a matter and a majority of votes cast on a resolution is sufficient to approve that resolution.
- (8) In the event of an equality of votes on any matter, the Chairperson will have an additional casting vote.
- (9) Subject to the provisions of section 75, in respect of Directors' conflicts of interests:

- (i) All Directors must annually complete an interest declaration in the format agreed by the Board and submit the forms to the Chairperson. The onus rests on the Director to inform the Chairperson of any changes to the declared interest.
 - (ii) At every Board meeting a declaration of conflict of interest must be made in the manner and form agreed by the Board in regard to all items for consideration before the Board.
 - (iii) A Director may not vote in respect of any matter tabled at the Board in which the Director has a material interest, or on any matter arising therefrom and if a vote is exercised contrary to this, the vote is not counted.
 - (iv) The Director must not take part in the consideration of the matter and leave the meeting immediately after making the required disclosure.
- (10) While being absent from the meeting in terms of clause 8(iv), the Director:
- (i) will be regarded as being present for the purpose of determining whether a sufficient number of Directors are present to constitute a quorum; and
 - (ii) will not be regarded as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted.
- (11) The Board must elect a Board Chairperson and a Vice-Chairperson and determine the period for which the Board Chairperson and a Vice-Chairperson is to hold office.
- (12) The Board Chairperson, or failing him or her, the Vice-Chairperson will preside at all meetings of the Board as Chair. If at any such meeting the Board Chairperson and Vice-Chairperson are not present within fifteen (15) minutes after the time appointed for the meeting, or on their refusing to preside, the Directors will choose a Director to be chair of that meeting.

7.9 Directors' compensation and financial assistance

Where a Director renders additional services to the Company, other than his/her services as a Director, such Director may be remunerated by the Company for such services, provided that such Remuneration is fair and reasonable, and has been approved by Board resolution following the procedure set out in section 75(5) and subject to section 3(a)(i) of Schedule 1 of the Act and section 66(8) and (9).

7.10 Indemnification of Directors

- (1) For purposes of this clause 7.10, **Director** includes, a prescribed officer or a person who is a member of a Board Committee of the Company, or of the audit committee of the Company, irrespective of whether or not the person is also a member of the Board.
- (2) The authority of the Company to advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company and to directly or indirectly indemnify a Director for such expenses if those proceedings are abandoned or exculpate the Director or arise in respect of any liability for which the Company may indemnify the Director, is not restricted or varied by this Memorandum of Incorporation.
- (3) The authority of the Company to indemnify a Director in respect of any liability for which the Company may indemnify a Director, is not restricted or varied by this Memorandum of Incorporation.
- (4) The authority of the Company to purchase insurance to protect:
 - (i) a Director against any liability or expenses for which the Company may indemnify a Director as contemplated in clause 7.10(2) or clause 7.10(3); or
 - (ii) the Company against any contingency including but not limited to any expenses that the Company is permitted to advance or for which the Company is permitted to indemnify a

Director as contemplated in clause 7.10(2) or any liability for which the Company is permitted to indemnify a Director as contemplated in clause 7.10(3),

is not restricted or varied by this Memorandum of Incorporation.

- (5) The Company may indemnify a Director in respect of liability arising out of performance of his/her duties and actions taken as Director except to the extent that such liability arises from wilful misconduct or wilful breach of trust.
- (6) The Company will be entitled to claim restitution from a Director or a related company for any money paid directly or indirectly by the Company to or on behalf of that Director in any manner inconsistent with this clause 7.10 or the Act.

7.11 Committees of the Board

- (1) The authority of the Company's Board to appoint any number of committees of the Board for managing any of the affairs of the Company and to delegate to any such committee any authority of the Board, is not restricted or varied by this Memorandum of Incorporation.
- (2) The Chief Executive Officer will be an *ex-officio* member of all committees.
- (3) The Board will appoint the chairperson of each committee.
- (4) Subject to the powers and authorities granted by the Board to any such committee, the authority of:
 - (i) the Board to include persons who are not Directors/Members of the Company, provided that such persons are not ineligible or disqualified from being a Director as contemplated in clause 7.4 and the Act and that such person will be entitled to vote on a matter to be decided by the committee;
 - (ii) the committee to consult with or receive advice from any other person; and
 - (iii) the committee to exercise the authority delegated to it by the Board in respect of a matter referred to it,

is not restricted or varied by this Memorandum of Incorporation.

- (5) Each Board committee must have a terms of reference dealing with its composition; role and purpose, functions; delegated authorities; tenure; meeting requirements and procedures and reporting mechanism to the Board.
- (6) The Board or a committee of the Board may delegate to management of the Company any of its powers upon such terms and conditions as is deemed fit.

7.12 Officers

The Company's Board may appoint any officers it considers necessary to better achieve the objects of the Company.

8 GENERAL PROVISIONS

8.1 Accounts

- (1) The Company's Board must keep accurate and complete accounting records required or prescribed by the Act.
- (2) The accounting records must be kept at the registered office of the Company or (subject to the provisions of section 25 of the Act) at such other location within the Republic as the Board think fit, and will at all times be accessible and open to inspection by the Board. Except as

provided by the Act or the authority of the Board, no Member (other than a Member who happens to be a Director has any right to inspect any accounting record or document of the Company.

- (3) The Board must, in accordance with sections 30 and 31 of the Act, cause to be prepared and laid before the Company at its annual general meeting those annual financial statements and reports and group annual financial statements and reports, if any.
- (4) Subject to the provisions of the Act, a copy of the annual financial statements and reports referred to in clause 8.1(3) must be delivered or sent by post to the registered address of each Member at least 10 business days before the annual general meeting. A Member may give the Company an address for the purposes of receiving electronic communications, in which case a copy of such documents may be delivered electronically to that Member at that address. This clause 8.1(4) does not require the Company to send or deliver a copy of such documents to any person who is not entitled to receive notice of general meetings of the Company or whose address the Company is not aware of.

8.2 Protected disclosures

- (1) The Company shall establish and maintain a system to receive disclosures contemplated in section 159 and will publicize the availability of that system by conspicuously displaying a notice to that effect, setting out the contact details of the person responsible for receiving any such disclosure:
 - (i) at the registered office of the Company, the principal places of conducting the business activities of the Company, and at any workplace where employees of the Company are employed; and
 - (ii) on the Company's website that is maintained by the Company and intended to be accessible by the categories of persons enumerated in section 159(4).

8.3 Conversion of the Company to a profit company, disposal of assets, mergers and amalgamations

- (1) The Company may not amalgamate or merge with, or convert to, a profit company, or dispose of any part of its assets, undertaking or business to a profit company, other than for fair value, except to the extent that such a disposition of an asset occurs in the ordinary course of the activities of the Company.
- (2) Any proposal to dispose of all or the greater part of the Company's assets or undertaking or to amalgamate or merge with another non-profit company must be submitted to the Members for approval, in a manner comparable to that required of profit companies in accordance with sections 112 and 113 of the Act, respectively.
- (3) Sections 115 and 116 of the Act, read with the changes required by the context, apply with respect to the approval of a proposal contemplated in clause (2) above.

8.4 Winding-up

- (1) The Company shall be dissolved by a special resolution to be effected by the Members at a duly constituted Annual General Meeting.
- (2) Upon the winding-up or dissolution of the Company, no past or present Member or Director of the Company, or person appointing a Director of the Company, is entitled to any part of the net value of the Company after its obligations and liabilities have been satisfied.
- (3) Upon the winding-up or dissolution of the Company, the Board must, after making provision for the liabilities and obligations of the Company and the costs of dissolving the Company distribute the entire net value of the Company to one or more non-profit companies, registered external

non-profit companies carrying on activities within South Africa, voluntary associations or non-profit trusts which have similar objects to the Company's main objects, provided that the entity concerned:

- (i) is an association approved by the Commissioner in terms of section 30B of the Income Tax Act;
 - (ii) is a public benefit organisation approved by the Commissioner in terms of section 30 of the Income Tax Act;
 - (iii) is an institution, board or body which is exempt from tax under section 10(1)(cA)(i) of the Income Tax Act; or
 - (iv) forms part of the government of South Africa in the national, provincial or local sphere.
- (4) The Company's main objects may be determined in terms of the Company's Memorandum of Incorporation or by its Members, or Directors immediately before the time of its dissolution; or by the court, if the Memorandum of Incorporation, or the Members or Directors fail to make such a determination.

8.5 Political Affiliation

The Company is not affiliated to any political party of the Republic of South Africa and it is the intention of the Company not to affiliate or allow undue influence from political parties. Whilst the Company respects the views and personal participation of Directors in the political process, Directors are to align with this principle whilst performing the duties and responsibilities of a Director.

Adoption of Memorandum of Incorporation

This Memorandum of Incorporation was adopted by special resolution at a Members meeting held on_____.