



MEMORANDUM OF INCORPORATION

INSURANCE INSTITUTE OF SOUTH AFRICA NPC

Registration Number: 1993/002172/08



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1. DEFINITIONS

In this Memorandum of Incorporation, unless the context indicates otherwise:

"Act"	shall mean the Companies Act 71 of 2008, as amended, consolidated or re-enacted from time to time and includes all schedules to such Act and the Regulations.
"Board Sub-Committee"	shall mean a body or bodies created in terms of section 9.1 of this Memorandum of Incorporation.
"Address"	shall mean a registered address elected by the Company.
"Board of Directors"	shall mean the Board of Directors of the Company and "Board" shall have a similar meaning.
"Business Day"	shall mean any day but excluding Saturdays, Sundays and proclaimed public holidays in the Republic of South Africa, and "day" or "days" shall have a similar meaning.
"Chairperson and Chairperson Elect"	shall mean and be construed as references to the President and Deputy President, respectively, of the Company.
"Chief Executive Officer"	shall mean the Chief Executive Officer of the Company as appointed to that position from time to time and "CEO" shall have a similar meaning. The CEO shall be an employee of the Company and the terms and conditions of his/her employment negotiated by the Board or its nominee.
"Commission"	shall mean the Companies and Intellectual Property Commission; established by section 185 of the Companies Act.
"Company"	shall mean the Insurance Institute of South Africa NPC, with its shortened name as IISA NPC, a Non-Profit Company incorporated in terms of the Companies Act 71 of 2008, as amended.
"Constitution"	shall mean the Constitution and the appropriate Rules relating thereto, of the Company and shall be approved and amended as determined by the provisions of the Constitution.
"Director"	shall mean a member of the Board of Directors of the Company, as contemplated in section 66 of the Act, elected in accordance with this Memorandum of Incorporation or subordinate regulations.

"FAIS Act"	shall mean the Financial Advisory and Intermediaries Act 37 of 2002.
"Financial year"	shall mean the twelve month period beginning on 1 January of any one year and ending on 31 December of the same year, or such other twelve month period in a calendar year as the Board may decide.
"Fundamental transactions"	shall mean dispose of all or the greater part of its assets or undertaking; or amalgamating or merging with another non-profit company.
"Gazette"	shall mean the Government Gazette of the Republic of South Africa.
"Good standing"	shall mean that, at that particular moment in time, the Member in question must not owe the Company any money nor have been found guilty of any misconduct by a Disciplinary Tribunal which misconduct led to suspension or termination of his/her membership of the Company and must have satisfied all the requirements for recertification, as determined in the Membership Regulations, in a timeous manner.
"Industry"	shall mean the short term insurance industry as it is practised by the Members, and as prescribed and regulated by the Board and the relevant government departments and other stake holders.
"In Writing"	shall mean and includes written, printed, typed, electronically produced or produced by any substitute for writing or partly one and partly another.
"King III"	shall mean the revised Code of, and Report on Governance Principle in South Africa.
"Member"	shall mean a person who has satisfied the requirements for membership in terms of the relevant Membership Regulations prescribed and approved by the Board, and who has been admitted to membership of the Company and shall include voting and non-voting members as determined by the Membership Regulations from time to time and whose details are entered as such in the Members Register of the Company.
"Membership Regulations"	shall mean the Membership Regulations of the Company as determined from time to time.
"Memorandum of Incorporation"	shall mean this Memorandum of Incorporation of the Company [including any Schedules hereto] and "Memorandum" shall have a similar meaning.
"Profits"	includes revenue and capital profits.

"Person or Entity"	includes any natural or juristic person, association, business, close corporation, company, concern, enterprise, firm, partnership, trust, undertaking, voluntary association, body corporate and any similar entity.
"Prescribed Officers"	means a person, who, within a company, performs any function that has been designated by the Minister in terms of Section 66 [10]. Regulation 38 [1] and extends this definition stating that a prescribed officer of a company is a person that exercises general executive control over the management of the whole, or a significant portion, of the business and activities of the company; or regularly participates to a material degree in the exercise of general executive control over the management of the whole, or a significant portion of the business and activities of the company.
"Register"	shall mean the Register of members kept in terms of the Constitution, Regulations and MOI.
"Republic"	shall mean the Republic of South Africa.
"Section"	shall mean a reference to the corresponding section of the Companies Act.
"Statutes"	shall mean the Companies Act, and any and every other statute or ordinance from time to time in force concerning companies and affecting the Company.
"Solvency and Liquidity Test"	shall mean a reference to the test set out in section 4 (1) of the Companies Act.
"Voting Rights"	shall mean the right to exercise a vote at all or some of the meetings of the Company, and/or during a ballot amongst members of the Company in accordance with the provisions of the Memorandum and the Regulations.
"Votes of Members"	every member present personally or by proxy at a meeting of the company and entitled to exercise voting rights, has one vote, which may be exercised either on a show of hands or on a poll at the discretion of the Chairman of the meeting.

2. INTERPRETATION OF THIS MEMORANDUM OF INCORPORATION

- 2.1 Words in this Memorandum denoting the singular shall include the plural and vice versa and words denoting the masculine shall include the feminine gender. Words denoting natural persons shall include legal persons;
- 2.2 Where appropriate, meanings ascribed in defined words and expressions in the definition section, shall impose substantive obligations on the parties as provided for in the definition concerned;

- 2.3 The section headings in this Memorandum have been inserted for convenience only and shall not be taken into account in its interpretation;
- 2.4 Words and expressions defined in any section or sub section(s), for the purposes of the section / sub section of which that sub section forms part, bear the meaning assigned to such words and expressions in that section of sub section;
- 2.5 Unless otherwise indicated, any expression to which a meaning is ascribed in the text of this Memorandum shall bear that meaning whenever such expression appears thereafter;
- 2.6 If any provision in a definition in this Memorandum is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of this Memorandum, notwithstanding that it is only in the definition section;
- 2.7 In this Memorandum, unless the contrary intention appears:
- 2.7.1 a reference to a recital, section, schedule or annex is a reference to a section or recital, schedule or annex to this Memorandum and references to this Memorandum include any recital, schedule or annex;
- 2.7.2 a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactment or replacements of any of them;
- 2.8 A reference to a day is to be interpreted to the period of time commencing at midnight and ending 24 (twenty four) hours later;
- 2.9 If an event must occur on a stipulated day which is not a Business Day, then the stipulated day will be taken to be the next Business Day;
- 2.10 A reference to anything (including, without limitation, any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to any one or more of them;
- 2.11 A reference to a day, a month or a year shall be construed as a calendar day, month or year, as the case may be;
- 2.12 When any number of days is described in this Memorandum, same shall be reckoned exclusively of the first day and inclusively of the last day unless the last day is not a Business Day in which case the last day shall be the next succeeding Business Day;
- 2.13 Any issue not specifically addressed in this Memorandum, shall be governed by the provisions of the Act;
- 2.14 Unless the context clearly indicates otherwise, a person elected, nominated and/or appointed to a position in accordance with this Memorandum shall remain in that position until he/she is disqualified and/or replaced by his/her successor in accordance with this Memorandum;
- 2.15 A reference to Members represented by proxy shall include Members represented by an agent appointed under general or special power of attorney;
- 2.16 Any schedules form an integral part of this Memorandum of Incorporation and words and expressions defined in this Memorandum of Incorporation bear, unless the context otherwise requires, the same meaning in those schedules;

- 2.17 In this Memorandum any references to the role or office of the Chairperson or Chairperson-elect, as referred to in the Act, shall be construed as references to the role and office of the President and Deputy President, respectively of the Company;
- 2.18 The rule of construction that the contract shall be interpreted against the party responsible for the drafting or preparation of the agreement, shall not apply.

3. INCORPORATION, MANAGEMENT AND NATURE OF THE COMPANY

3.1 Incorporation of the Company

- 3.1.1 The Company was incorporated as a non-profit Company on the 26th April 1993 and is a pre-existing Company registered in terms of the Companies Act 61 of 1973, and therefore continues to exist as a Company as if it had been registered in terms of the Act as contemplated in Section 2 of the Fifth Schedule of the Act.
- 3.1.2 The Company is incorporated as a Non Profit Company with non-shareholding members.
- 3.1.3 The Company is incorporated in accordance with, and governed by:
- 3.1.3.1 the unalterable provisions of the Act that are applicable to Non Profit Companies;
 - 3.1.3.2 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; and
 - 3.1.3.3 the provisions of this Memorandum;
- 3.1.4 The Company shall operate as an independent Professional Body for the insurance industry in South Africa.
- 3.1.5 No person shall solely by reason of being an Incorporator, Member or Director of the Company be liable for any liabilities or obligations of the Company.

3.2 Management of the Company:

3.2.1 The Board

The business and affairs of the Company shall be managed by or under the direction of the Board of Directors who may exercise all the powers and perform any of the functions of the Company, except to the extent that the Act or this Memorandum provides otherwise which are not by the Act or by this Memorandum reserved to be exercised by the Company in an Annual General Meeting, General or Special General Meeting.

The Board assumes the following roles but its duties are not limited to:

- 3.2.1.1 ensuring that the company is and is seen to be a responsible corporate citizen;

- 3.2.1.2 appreciating that strategy, risk, performance and sustainability are inseparable;
- 3.2.1.3 responsible for setting strategic direction, on-going monitoring and evaluation and also overall governance of the company;
- 3.2.1.4 appointing the CEO and measures the performance of the CEO;
- 3.2.1.5 ensuring that the Board and its committees are evaluated annually;
- 3.2.1.6 ensuring that all directors understand the duties and liabilities of directors as provided for by the Act and King III;
- 3.2.1.7 ensuring that all powers contemplated in section 3.5. of this Memorandum are implemented.

3.2.2 The Executive

The CEO is an employee of the Company. The Board delegates authority for all operational decisions to the CEO, so long as those decisions accomplish the ends stated in the Board's policies and stay within the safe boundaries established by Executive Limitations. The CEO will therefore be fully accountable for all operational performance of the company and will be tasked to ensure the following, but is not limited to:

- 3.2.2.1 ensuring that the company's performance and interaction with its stakeholders is guided by the Constitution and the Bill of Rights;
- 3.2.2.2 appreciating that strategy, risk, performance and sustainability are inseparable;
- 3.2.2.3 identifying prescribed officers of the company and ensuring that these prescribed officers understand their duties and liabilities as prescribed in the Act and King III;
- 3.2.2.4 ensuring that the company has an effective and independent audit committee;
- 3.2.2.5 ensuring the Board takes responsibility for information technology (IT) governance;
- 3.2.2.6 ensuring that the company complies with applicable laws and considers adherence to nonbinding rules, codes and standards;
- 3.2.2.7 ensuring that there is an effective risk-based internal audit and the company's system of internal controls are effective;
- 3.2.2.8 ensuring the integrity of the company's Annual report.

3.3 Name of the Company:

The name of the Company is The Insurance Institute of South Africa NPC, with its shortened name as IISA NPC.

3.4 Official Address of the Company:

Business Address: Ground Floor Block B Investment Place
10th Rd off 2nd Road
Hyde Park Sandton

Registered Address: Ground Floor Block B Investment Place
10th Rd off 2nd Road
Hyde Park Sandton

Postal address: PO Box 413264, Craighall, Gauteng, 2024

3.5 Business, Object and Powers:

3.5.1 From date of registration of this Memorandum with the Commission, the Company:

3.5.1.1 continues to be a juristic person, which exists continuously until its name is removed from the Companies Register in accordance with this Act;

3.5.1.2 has all the legal powers and capacity of an individual as contemplated per section 19[1][b][ii] of the Act subject to any restrictions, limitations or qualifications arising from this Memorandum of Incorporation;

3.5.1.3 is constituted in accordance with:

3.5.1.3.1 the unalterable provisions of this Act;

3.5.1.3.2 the alterable provisions of the Act, subject to the limitations, extensions, restrictions or substitutions set out in this Memorandum of Incorporation;

3.5.1.3.3 any further provisions of this Memorandum;

3.5.1.4 this Memorandum is subject to the provisions contemplated in section 15 (3) of the Act and as set out in this Memorandum;

3.5.1.5 upon dissolution of the Company, its net assets must be distributed in the manner determined in accordance with the provisions as set out in section 10.3 of this Memorandum and section 1 [4] [a] and [b] of Schedule 1 of the Act.

3.5.2 The main object and business of the Company shall be to advance and promote the pre-eminence and status of insurance professionals, while at all times acting in the public interest of the insurance society whom the profession serves, by:

3.5.2.1 providing and maintaining a central organisation for the promotion of efficiency, progress, knowledge, educational and skills development, welfare and the general good and development among persons engaged or employed in the insurance industry, whether Members or not and to set and communicate standards regarding professionalism and to achieve an image and reputation of excellence;

- 3.5.2.2 conferring the status of Institute membership, Fellow, Associate, Licentiate or General upon approved persons who comply with the personal standards and academic qualifications and skills determined by the Institute and to represent, further, protect and promote the interests and welfare of such Members carrying on business in the insurance industry and to deal with all matters as may affect the common interests of Members;
 - 3.5.2.3 protecting, promoting and advancing the common interests of its Members, including the taking of such concerted measures as may be deemed expedient whenever the business of the Members may be affected by the action or proposed action of any Government or other authority or any person;
 - 3.5.2.4 promoting agreement and cooperation between the Company and its Members and between its Members *inter se*, on all matters of common interest;
 - 3.5.2.5 doing all such things as may in the opinion of the Directors be necessary, proper or advisable for the general advancement of the short term insurance industry or which may be necessary for, or incidental or conducive to, the attainment of any of the objects of the Company;
 - 3.5.2.6 improving the quality and accessibility of insurance professionals for all in Southern Africa / South Africa;
 - 3.5.2.7 acting as advocate for professional insurance practice, building a recognition of the importance and need for such professionalism by the general public;
 - 3.5.2.8 providing a framework within which members can achieve qualifications and maintain competence to create greater value for their clients, employers and the industry;
 - 3.5.2.9 ensuring that members maintain the highest ethical standards in the pursuance of their profession;
 - 3.5.2.10 providing a leadership role within insurance services by providing balanced, credible input and commentary to government and the public;
 - 3.5.2.11 facilitating transformation within the profession.
- 3.5.3 For the advancement of the abovementioned aim the Board of Directors may exercise the following powers, namely:
- 3.5.3.1 to form an association or to affiliate with, or become a Member of, any other institution, society or organisation which can promote the business and objectives of the Company;
 - 3.5.3.2 to prescribe a Code of Ethics and Professional Responsibility for the Company's Members, and any other rules for professional qualification, conduct and ethics as may be prescribed by the Board from time to time;

- 3.5.3.3 to participate, financially or otherwise, directly or indirectly, in the printing and publishing of a journal or a newspaper, books pamphlets, literature or in any other kind of publication and to take ancillary action as may be required to enhance the success of the publications generally;
- 3.5.3.4 to arrange and finance or to assist in arranging or financing, or to establish a legal entity to arrange and/or finance congresses, seminars, symposia and the like;
- 3.5.3.5 to provide or facilitate the provision, promotion and recording of continuing education to Members at centres and institutions approved by the Board, and to approve programs and courses to be dealt with at same;
- 3.5.3.6 to appoint delegates, speakers and lecturers to attend such congresses, seminars, symposia and/or training courses;
- 3.5.3.7 to assist with the drafting and to approve syllabi and curricula for educational and continuing educational courses for the Company and its Members;
- 3.5.3.8 to consult and liaise with Government Departments, the Financial Services Board or other interested organisations or persons in matters relating to legislation, regulation, directives, rules and interests of the Company, its Members and the Industry;
- 3.5.3.9 to accept donations, grants and other monies;
- 3.5.3.10 to borrow, raise or secure any sum of money required for the business and objectives of the Company upon such terms and on such securities as may be determined by the Board. Without derogating from the generality thereof, to execute a mortgage and/or notarial bond or to issue debenture stocks charged upon all or any of the property of the Company;
- 3.5.3.11 to purchase, accept, exchange, hire or otherwise acquire any movable or immovable property or any rights and privileges necessary for the business and objectives of the Company;
- 3.5.3.12 to sell, improve, manage, develop, lease, mortgage, dispose of, or otherwise deal with or encumber all or any part of the property of the Company;
- 3.5.3.13 to invest the funds of the Company or any portion thereof in such securities and in such manner as the Board may from time to time determine and to vary or transpose such investments at its discretion;
- 3.5.3.14 to open and operate banking accounts and saving accounts with registered banking institutions;

- 3.5.3.15 to apply the income and property of the Company however derived, solely towards the promotion of the business and objectives of the Company as set forth in this Memorandum, and no portion thereof to be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise whatsoever by way of profit, to the Members, directors, alternate directors, officers, prescribed officers or related persons of the Company, provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any member, officers, prescribed officers or related party of the officer, servant or Member of the Company in return for authorised services actually rendered to or on behalf of the Company;
- 3.5.3.16 to levy fees or subscriptions, and/or financial penalties, and/or interest on its Members;
- 3.5.3.17 to suspend and/or terminate the membership of a Member in accordance with the applicable regulations;
- 3.5.3.18 to appoint the CEO, agents or servants of the Company; to determine their designations, duties, remuneration and responsibilities; to dismiss or suspend all or any of them;
- 3.5.3.19 to establish or contribute towards a pension fund or scheme and to contribute towards a medical benefit or aid scheme on behalf of employees of the Company upon such terms as approved by the Board of Directors;
- 3.5.3.20 to make and amend regulations by general resolution. The Board, in amending and/or making new regulations, may cover any matter or aspect that it considers necessary or expedient to prescribe for the better execution of this Memorandum and the furtherance of the objectives and business of the Company. Such regulations will become binding when notice thereof have been given to Members in such manner as the Board from time to time may decide;
- 3.5.3.21 to interpret any section of this Memorandum, regulations made in terms hereof or the Code of Ethics and Professional Responsibility if any dispute arises as to its meaning. Such interpretation, once approved by simple majority of the Directors and published to the Members, shall be binding on all Members with immediate effect;
- 3.5.3.22 to make, amend or repeal any necessary or incidental rules relating to the governance of the Company that are not addressed in the Act or this Memorandum;
- 3.5.3.23 to ensure that a register of all Members and Directors of the Company is kept containing the current details of all Members and Directors;
- 3.5.3.24 to appoint Board Sub-Committees and other special Committees, provided that the Members of any such Committees shall be elected in accordance with the Act, or this Memorandum or Committee Regulations; to regulate such Committees; to determine, withdraw or modify the power and authority of such Committees; and to dissolve them, as deemed necessary by the Board of Directors;

- 3.5.3.25 to create, qualify, admit and designate Members of the Company; to create and determine Member's professional designations; to create categories of membership and affiliations to the Company; to alter, transfer and abolish Member's professional designation(s) and to suspend or terminate the membership of Members in terms of this Memorandum or other regulations governing such actions;
- 3.5.3.26 to make, vary and repeal by-laws and/or regulations necessary to regulate the business of the Company and matters relating to its Board Committees, Members, officers and servants, and to enforce such by-laws and/or regulations, provided that such by-laws and/or regulations shall not be in conflict with this Memorandum, the objectives and the powers of the Company or the Act;
- 3.5.3.27 to institute legal proceedings in the name of the Company, to defend or oppose any legal action brought against the Company and to engage the services of legal counsel and to pay its/their fees;
- 3.5.3.28 to enter into agreements and to authorise the settling of the terms and conditions thereof and the signature of any such agreement or any other document;
- 3.5.3.29 to affiliate and to associate with such other insurance institutes or bodies as may in the opinion of the Board of Directors be deemed beneficial to the interests of the Company and to contribute or subscribe to bodies with aims similar to the aims of the Company;
- 3.5.3.30 to generally do whatever the Board deems necessary to enable it to carry out the objectives of the Company and to exercise the powers and to perform the functions and to discharge the duties given to it in the Act, the Constitution and King III or imposed upon it in terms of this Memorandum.

4. MEMORANDUM OF INCORPORATION

- 4.1 This Memorandum may be altered or amended as contemplated in section 10.1 of this Memorandum and as stated in Sections 16 and 17 of the Act;
- 4.2 The Board of Directors is authorised to 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;
- 4.3 The Company must publish a notice of any alteration of this Memorandum by delivering a copy of those alterations to each Member and Director by electronic medium;
- 4.4 The Company elects to not to voluntarily comply with the provisions of Chapter 3 of the Act except to the extent as required by this Memorandum stipulated in section 5.

5. ACCOUNTABILITY AND TRANSPARENCY

5.1 Accounting Records:

- 5.1.1 The financial year of the Company shall be in accordance with the period defined in the definitions above;
- 5.1.2 The Company shall keep such Accounting Records as are necessary to present the state of affairs and business of the Company and to explain the transaction and financial position of the Company including:
 - 5.1.2.1 records showing the assets and liabilities of the Company;
 - 5.1.2.2 a register of fixed assets showing the respective dates of acquisition and the cost thereof, depreciation, if any, the respective dates of any disposals and the consideration received in respect thereof; and
 - 5.1.2.3 records, containing entries from day to day in sufficient detail of all cash received and paid out of the matters in respect of which receipts and payments take place;
- 5.1.3 The books of account shall be kept at the business address of the Company or at such other place or places as the Board deem fit, and shall always be open to the inspection of the Directors;
- 5.1.4 The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company shall be open to the inspection of Members, not being Directors, and no Member (not being a Director) shall have the right of inspecting any account or document of the Company except as conferred by the Act, or authorised by the Board or by the Company in General Meeting, or as contemplated in section 6.3 of this Memorandum;
- 5.1.5 The Board shall in respect of every financial year of the Company cause to be made Annual Financial Statements in accordance with the Act and shall lay them before the Annual General Meeting of the Company in respect of that year;
- 5.1.6 A copy of the Annual Financial Statements which are to be laid before the Company in Annual General Meeting, shall not less than 15 (fifteen) business days before the date of the meeting be sent to every Member of the Company, provided that this section shall not require a copy of those documents to be sent to any person of whose address the Company is not aware and, provided further that such copy may be sent in any electronic format or facsimile to all members able to receive such a copy in such format and shall be available for inspection at the official address of the Company and on the Company's website.

5.2 Optional Provisions of the Act:

The Company elects not to voluntarily comply with the complete provisions of Chapter 3 of the Act, except in the following regard:

- 5.2.1 The Annual Financial Statements of the company are to be audited and shall:
 - 5.2.1.1 include an Auditor's report, if the statements are audited;

- 5.2.1.2 include a report by the Directors with respect to the state of affairs, the business and surpluses and deficits of the Company, or of the group of companies, if the Company is part of a group, including any matter material for the members to appreciate the Company's state of affairs;
- 5.2.1.3 include any other prescribed information;
- 5.2.1.4 be approved by the Board and signed by an authorised Director; and
- 5.2.1.5 be presented to the first Member's meeting after the statements have been approved by the Board;
- 5.2.1.6 include the remuneration and benefits received by each Director in the Company;
- 5.2.1.7 include the amount of any compensation paid in respect of loss of office to current or past Directors or individuals who hold or have held any prescribed office in the Company;
- 5.2.2 The Company must appoint a registered Auditor as prescribed by sections 84 and 85 of the Act;
- 5.2.3 The Company must appoint a person or company to serve as Company Secretary as prescribed in section 85 of the Act;
- 5.2.4 The Company must appoint an Audit Committee as contemplated in sections 34(2) and 84(1)(c)(ii) of the Act. The Audit Committee shall:
 - 5.2.4.1 comprise of at least two members;
 - 5.2.4.2 each member must be a Director of the Company, who satisfies any applicable requirements prescribed by the Act shall:
 - 5.2.4.2.1 not be involved in the day-to-day management of the Company's business or have been so involved at any time during the previous financial year;
 - 5.2.4.2.2 not be a prescribed officer, or full-time employee, of the Company or another related or inter-related company, or have been such an officer or employee at any time during the previous three financial years; or
 - 5.2.4.2.3 not be a material supplier or customer of the Company, such that a reasonable and informed third party would conclude in the circumstances that the integrity, impartiality or objectivity of that Director is compromised by that relationship; and
 - 5.2.4.2.4 not be related to any person who falls within any of the criteria set out above;
 - 5.2.4.3 fill any vacancy on the audit committee within 40 business days after the vacancy arises;

5.2.4.4 fulfil all of the following duties:

- 5.2.4.4.1 to nominate, for appointment a registered Auditor who, in the opinion of the Audit Committee, is independent of the Company;
- 5.2.4.4.2 to determine the fees to be paid to the Auditor and the Auditor's terms of engagement;
- 5.2.4.4.3 to ensure that the appointment of the Auditor complies with the provisions of this Act and any other legislation relating to the appointment of Auditors;
- 5.2.4.4.4 to determine the nature and extent of any non-audit services that the Auditor may provide to the Company, or that the Auditor must not provide to the Company, or a related company;
- 5.2.4.4.5 to pre-approve any proposed agreement with the Auditor for the provision of non-audit services to the Company;
- 5.2.4.4.6 to prepare a report, to be included in the Annual Financial Statements for that financial year;
- 5.2.4.4.7 comment in any way the committee considers appropriate on the financial statements, the accounting practices and the internal financial control of the Company;
- 5.2.4.4.8 receive and deal appropriately with any concerns or complaints, whether from within or outside the Company, or on its own initiative, relating to:
 - 5.2.4.4.8.1 the accounting practices and internal audit of the Company;
 - 5.2.4.4.8.2 the content or auditing of the Company's financial statements;
 - 5.2.4.4.8.3 the internal financial controls of the Company;
or
 - 5.2.4.4.8.4 any related matter.
- 5.2.4.4.9 make submissions to the Board on any matter concerning the Company's accounting policies, financial control, records and reporting; and
- 5.2.4.4.10 perform such other oversight functions as may be determined by the Board;
- 5.2.4.4.11 ascertain that the Auditor does not receive any direct or indirect remuneration or other benefit from the Company, except as Auditor, or for rendering other services to the Company, to the extent permitted of the Act;

- 5.2.4.4.12 consider whether the Auditor's independence may have been prejudiced as a result of any previous appointment as Auditor or having regard to the extent of any consultancy, advisory or other work undertaken by the Auditor for the Company;
- 5.2.4.4.13 consider compliance with other criteria relating to independence or conflict of interest as prescribed by the Independent Regulatory Board for Auditors established by the Auditing Profession Act 26 of 2005, as amended;
- 5.2.4.4.14 ensure that nothing in this section precludes the appointment by a company at its Annual General Meeting of an Auditor other than one nominated by the Audit Committee, but if such an Auditor is appointed, the appointment is valid only if the Audit Committee is satisfied that the proposed Auditor is independent of the Company;
- 5.2.4.4.15 ensure that neither the appointment nor the duties of an Audit Committee reduce the functions and duties of the Board or the Directors of the Company, except with respect to the appointment, fees and terms of engagement of the Auditor;
- 5.2.4.4.16 ensure that the Company pays all expenses reasonably incurred by its Audit Committee, including, if the Audit Committee considers it appropriate, the fees of any consultant or specialist engaged by the Audit Committee to assist it in the performance of its functions.

6. MEMBERSHIP

6.1 Terms and Conditions of Membership:

The Company's terms and conditions of membership are provided for in the Constitution and Membership Regulations, determined by the Board of Directors, from time to time.

- 6.1.1 The Company shall have non-shareholding members who are categorized as either voting or non-voting members, subject to the provisions of section 6.2 below;
- 6.1.2 Membership of the Company shall be personal and non-transferable and shall, as provided for in this Memorandum, Constitution and the Membership Regulations, be subject to *inter alia*:
 - 6.1.2.1 professional designation qualifying criteria;
 - 6.1.2.2 observance of the Code of Ethics and Professional Responsibility and adherence to the provisions of the Financial Advisory and Intermediaries Act 37 of 2002;
 - 6.1.2.3 Continuous Professional Development requirements;

6.1.2.4 any such further or amended certification regulations and policies as determined by the Board of Directors from time to time.

6.2 Voting Rights of Members:

6.2.1 Voting members:

Voting Members shall be members of the Company who are FELLOWS, ASSOCIATES OR LICENTIATE® professionals, in good standing in terms of initial and periodic costs of membership determined in the Constitution and Regulations, upon whom full voting rights are conferred in all matters relating to the governance of the Company.

6.2.2 Non-voting members:

6.2.2.1 General Members [IISA Member Level 1, Level 2 and Level 3] shall have the right to attend all General meetings, but shall have no voting rights;

6.2.2.2 Honorary Life Members shall have the right to attend all General Meetings, but shall have no voting rights, other than those which they may already have or may have acquired in their respective capacities as Professional Members in terms of clause 6.2.1.

6.3 Rights of Members:

6.3.1 Members' right to information:

6.3.1.1 In addition to the rights to access information set out in Section 26 (1) of the Act, a Member of the Company shall have a right to information as set out in this Memorandum or as determined by the Promotion of Access to Information Act 2 of 2000, as amended in terms of section 26 [2] of the Act;

6.3.1.2 in terms of the provisions of Section 26 [3], a register, maintained by the Company, of Members and Directors of the Company, must, during business hours for reasonable periods be open to inspection by any Member, free of charge and by any other person, upon payment for each inspection of an amount not more than R100.00.

6.3.2 Representation by concurrent proxies:

Members are restricted by this Memorandum to appoint persons concurrently as proxies.

6.3.3 Authority of proxy to delegate:

The authority of a Member's proxy to delegate the proxy's powers to another person is limited by this Memorandum.

6.3.4 Requirement to deliver proxy instrument to the Company:

A copy of the instrument appointing the proxy must be delivered to the Company, before the proxy exercises any rights of the Member at a members meeting.

6.3.5 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 any voting right of the Member, is not limited or restricted by this Memorandum, save to the extent to which the proxy instrument provides otherwise.

6.3.6 Record Date for exercise of Member's Rights:

The record date for a member to exercise its rights will be as follows:

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

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

7. DIRECTORS AND OFFICERS

7.1 Authority of the Board of Directors:

The business and affairs of the Company shall be managed by or under the direction of the Board, which shall have the authority to exercise all of the powers and direct all of the functions of the Company, except to the extent that the Companies Act or this MOI provides otherwise.

7.2 Composition and Election of the Board of Directors:

7.2.1 The Board of Directors of the Company comprises of a minimum of 3 [three] and a maximum of 12 [twelve] Directors, each of whom shall be elected:

7.2.1.1 in the manner set out in this Memorandum; and

7.2.1.2 shall serve for a term of 3 [three] years on a staggered rotational basis for the sake of continuity and to ensure the annual election of at least a third of the directors to replace those who retire by rotation, but who may be available for re-election, and any new directors, duly nominated for election as set out in this Memorandum;

7.2.1.3 if the number of Directors falls below the minimum number fixed in accordance with this Memorandum of incorporation, the remaining Directors must, as soon as possible and in any event not later than three months from the date that the number falls below such minimum, fill the vacancy/ies or convene a general meeting for the purpose of filling the vacancies, and the failure by the Company to have the minimum number of Directors during the said three month period does not limit or negate the authority of the Board or invalidate anything done by the Board while their number is below the minimum number fixed in accordance with this Memorandum of Incorporation;

- 7.2.1.4 the Directors in office may act notwithstanding any vacancy in their body, but if their number remains reduced below the minimum number fixed in accordance with this Memorandum of Incorporation after the expiry of a three month period they may, for as long as their number is reduced below such minimum, act only for the purpose of filling vacancies in their body in terms of Section 68[3] of the Companies Act or of summoning general meetings of the Company, but not for any other purpose;
- 7.2.2 In addition to the Appointed Directors, there are no *ex officio* Directors of the Company, other than as contemplated in section 7.6.7 of this Memorandum;
- 7.2.3 The affairs of the Company shall be exclusively managed by a Board of Directors, who shall hold office until the assumption of office of their duly elected successors, provided that:
 - 7.2.3.1 non-executive Directors shall not hold office for more than three (3) consecutive terms;
 - 7.2.3.2 a non-executive Director may be eligible for re-election or re-appointment to serve further terms, and provided that the period to which they have been re-elected or re-appointed does not exceed three (3) consecutive terms;
 - 7.2.3.3 the Chairperson and Chairperson-elect are not subject to the conditions contained in section 7.2.3.2 above, but to the provisions contained in section 7.2.5, 7.2.6, 7.2.7 and 7.2.8;
- 7.2.4 The Board of Directors shall comprise of the persons stated in sections 7.2.5 to 7.2.10 inclusive;
- 7.2.5 The CEO shall call for a meeting of the Board of Directors within 60 (sixty) days of the conclusion of the Annual General Meeting, inviting only those Directors who are in conformance with section 7.2.3 to attend such meeting;
- 7.2.6 At its first meeting or whenever thereafter necessary, the newly elected Board of Directors shall elect from amongst its members a Chairperson;
- 7.2.7 Once a Chairperson has been elected, a Chairperson-elect shall *mutatis mutandis* be elected from the same ranks and in accordance with the same procedures and consequences as those prescribed for a Chairperson;
- 7.2.8 The Chairperson-elect shall hold office for two years, shall at the end of his/her term as Chairperson-elect, automatically be eligible for election as Chairperson for a term of three [3] years, and, in case he/she declines this eligibility or is not elected as Chairperson, be eligible for immediate re-election as Chairperson-elect. These provisions shall be subject to the Chairperson-elect's continued membership of the Board as either an Elected or Appointed Director, limitation of terms and the Board's decision;
- 7.2.9 The Board of Directors shall appoint a CEO to act as the executive of the Board of Directors;
 - 7.2.9.1 to implement the policies and strategies as determined by the Board from time to time; and
 - 7.2.9.2 to attend all Board meetings; and

- 7.2.9.3 who will have the right to vote at any Board meeting; and
- 7.2.9.4 on such further terms and conditions as the Board deem necessary;
- 7.2.9.5 to implement tasks as contemplated in section 3.2.2 of this Memorandum;
- 7.2.9.6 who shall be entitled to vote on any matter that is placed before the Board of Directors and;
- 7.2.9.7 3 [three] Directors [the "Appointed Directors"] who may, but need not all be Members and who shall be appointed by a two thirds majority decision by the Board then consisting of those Directors elected under the provisions of this section 7.2.11 as well as the CEO, from a list of nominated persons prepared by the Nomination Committee, a Board Committee appointed by the Board in accordance with the provisions of section 9;
- 7.2.10 If the position of the CEO is vacant when such appointment is due, the said elected Directors shall not be required to appoint a CEO before appointing the said minimum of three [3] Appointed Directors;
- 7.2.11 In the event that an Appointed Director resigns, is removed or passes away during his/her term of office, a successor shall be nominated and appointed in accordance with the provisions of this section 7.3 to serve the remainder of the term of the Appointed Director whose position has become vacant; and
- 7.2.12 Except for the CEO, all other Members of the Board shall be non-executive, unless it becomes necessary in the sole discretion of the Board, to appoint more executive Directors to the Board from its own ranks;
- 7.2.13 As per section 69(2) of the Act a person who is ineligible or disqualified must not:
 - 7.2.13.1 Be appointed or elected as a director of the company or consent to being appointed or elected as a director; or
 - 7.2.13.2 Act as a director of the company;
 - 7.2.13.3 The company must not knowingly permit an ineligible or disqualified person to serve or act as a director;
 - 7.2.13.4 A person who becomes ineligible or disqualified while serving as a director of the company ceases to be entitled to serve as a director immediately in terms of section 70 [1] subject to section 70(2) of the Act pertaining to vacancies of directors;
 - 7.2.13.5 If a person has been placed under probation by a court in terms of section 162 must not serve as a director except to the extent permitted by the order of probation;
 - 7.2.13.6 The company may not elect a juristic person as a director;
 - 7.2.13.7 Additional company specific ineligibility or minimum qualification requirements

- 7.2.13.7.1 A person is disqualified to be a director, prescribed officer, or committee member of the company, as discussed in section 69(8) to section 69(13), if -
- 7.2.13.7.2 A court has prohibited that person to be a director, or declared the person to be delinquent in terms of section 162; or
- 7.2.13.7.3 Subject to section 69(9) to (13) the person:
 - 7.2.13.7.3.1 is an un-rehabilitated insolvent;
 - 7.2.13.7.3.2 is prohibited in terms of any public regulation to be a director of the company;
 - 7.2.13.7.3.3 has been removed from an office of trust, on the grounds of misconduct involving dishonesty; or
 - 7.2.13.7.3.4 has been convicted, in the Republic of elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount, for theft, fraud, forgery, perjury or an offence-
 - 7.2.13.7.3.4.1 involving fraud, misrepresentation or dishonesty;
 - 7.2.13.7.3.4.2 in connection with the promotion formation or management of a company, or in connection of any act contemplated in section 7.2.11;
 - 7.2.13.7.4.3 under this act, the Insolvency Act, 1936 (Act No.24 1936), the close Corporations Act, 1984, the Competition Act, the Financial Intelligence Centre Act, 2001 (Act No.38 of 2001), the Securities Services Act, 2004 (Act No.36 of 2004), or Chapter 2 of the Prevention and Combating of Corruption Activities Act, 2004(Act No.12 of 2004);
- 7.2.13.7.4 A director, per the Act, may be removed by an ordinary resolution adopted at a members meeting by the

persons entitled to exercise voting rights in an election of that director.

7.2.13.7.5 If the company has 2 or more directors and a member or a director has alleged that a director of the company;

7.2.13.7.5.1 Has become -

7.2.13.7.5.1.1 ineligible or disqualified in terms of section 69, or other grounds contemplated in section 69(8)(a); or

7.2.13.7.5.1.2 Incapacitated to the extent that the director is unable to perform the functions of a director, and is unlikely to regain that capacity within a reasonable time, or

7.2.13.7.6 Has neglected, or been derelict in the performance of functions of director,

The board, other than the director concerned, must determine the matter by resolution, and may remove a director whom it has determined to be ineligible, or disqualified, incapacitated, or negligent or derelict, as the case may be.

7.2.13.7.7 The director concerned per article 0 and 7.2.13.7.6;

7.2.13.7.7.1 needs to be given adequate notice of the meeting and resolution;

7.2.13.7.7.2 must be afforded a reasonable opportunity to make a presentation in person or through a representative, to the meeting, before the resolution is put to a vote.

7.2.14 Standards of directors conduct

A Director of a company must:

7.2.14.1 Not use the position of a director, or any information obtained while acting in the capacity of a director-

7.2.14.1.1 To gain an advantage for the director, or for another person other than the company; or

7.2.14.1.2 To knowingly cause harm to the company or the reputation or name of the company; and

- 7.2.14.1.3 Communicate to the board at the earliest practicable opportunity any information that comes to the director's attention, unless the director;
 - 7.2.14.1.3.1 reasonably believes that the information is immaterial to the company; or
 - 7.2.14.1.3.2 generally available to the public, or known to the other directors; or
 - 7.2.14.1.3.3 is bound not to disclose that information by a legal or ethical obligation of confidentiality;
- 7.2.14.1.4 Subject to provisions of this article, a director of a company, when acting in that capacity must exercise the powers and perform the functions of director;
 - 7.2.14.1.4.1 in good faith and for a proper purpose;
 - 7.2.14.1.4.2 in the best interest of the company; and
 - 7.2.14.1.4.3 with the degree of care, skill and diligence that may reasonably be expected of a person;
 - 7.2.14.1.4.4 carrying out of the same functions in relation to the company as those carried out by that director; and
 - 7.2.14.1.4.5 having the general knowledge, skill and experience of that director.

In respect of any particular matter arising in the exercise of the powers or the performance of the functions of director, a particular director of a company -

- 7.2.14.1.5 will have satisfied the obligations above if
 - 7.2.14.1.5.1 the director has taken reasonably diligent steps to become informed about the matter;
 - 7.2.14.1.5.2 the director had no material personal financial interest in the subject matter of the decision, and had no reasonable basis to know that any related person had a personal financial interest in the matter; or
 - 7.2.14.1.5.3 the director complied with the requirements of section 75 with respect to any interest; and
 - 7.2.14.1.5.4 the director made a decision, or supported the decision of a committee or the board, with regard to that matter, and

the director had a rational basis for believing and did believe, that the decision was in the best interests of the company; and

7.2.14.2 Is entitled to rely on the performance by any of the persons referred to below; or

7.2.14.2.1 to whom the board may reasonably have delegated formally or informally by course of conduct the authority or duty to perform one or more of the boards functions that are delegable under applicable law; and

7.2.14.2.2 any information, opinions, recommendations, reports or statements, including financial statements and other financial data, prepared or presented by any of the persons specified below;

7.2.14.3 To the extent contemplated in the above article, a director is entitled to rely on

7.2.14.3.1 one or more employees of the company whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports or statements provided;

7.2.14.3.2 legal counsel, accountants, or other professional persons retained by the company, the board or a committee as to matters involving skills or expertise that the director reasonably believes are matters;

7.2.14.3.2.1 within the particular persons professional or expert competence; or

7.2.14.3.2.2 as to which the particular person merits confidence; or

7.2.14.3.2.3 a committee of the board of which the director is not a member, unless the director has reason to believe that the actions of the committee do not merit confidence;

7.2.14.4 Liability of Directors and Prescribed Officers

A director of a company may be held liable

7.2.14.4.1 In accordance with the principals of the common law relating to breach of a fiduciary duty, for any loss, damages or costs sustained by the company as a consequence of any breach by the director of a duty contemplated in section 75 or section 76;

- 7.2.14.4.2 In accordance with the principals of the common law relating to delict for any loss, damages or costs sustained by the company as a consequence of any breach by the director of-
- 7.2.14.4.2.1 A duty contemplated in section 76(3)(a)(b) or (c) or failing to comply with the *Standards for directors conduct as contained in section 7.2.16.1.4.3* of the MOI;
 - 7.2.14.4.2.2 Any provision of this act not otherwise mentioned in this section; or
 - 7.2.14.4.2.3 Any provision of the company's Memorandum of Incorporation.
- 7.2.14.5 A director of a company is liable for any loss, damages or costs sustained by the company as a direct or indirect consequence of the director having -
- 7.2.14.5.1 Acted in the name of the company, signed anything on behalf of the company, or purported to bind the company or on behalf of the company, despite knowing that the director lacked the authority to do so;
 - 7.2.14.5.2 Acquiesced in the carrying on of the company's business despite knowing that it was being conducted in a manner prohibited by section 22(1);
 - 7.2.14.5.3 Been a party to an act or omission by the company despite knowing that the fact or omission was calculated to defraud a creditor, employee or member of the company, or had another fraudulent purpose;
 - 7.2.14.5.4 Signed, consented to, authorised the publication of
 - 7.2.14.5.4.1 any financial statements that were false or misleading in a material respect; or
 - 7.2.14.5.5 The liability of a person in terms of this section is joint and several with any other person who is or may be held liable for this act;
 - 7.2.14.5.6 Proceedings to recover any loss, damages or costs for which a person is or may be held liable in terms of this section may not be commenced more than three years after the act of omission that gave rise to that liability;
 - 7.2.14.5.7 In addition to the liability set out elsewhere in this section, any person who would be so liable is jointly and severally liable with all other such persons;
 - 7.2.14.5.8 To pay the cost of all parties in the court in a proceeding contemplated in this section unless the proceedings are abandoned, or exculpate that person; and

- 7.2.15 Any Member of the Board of Directors shall cease to hold office if he/she:
- 7.2.15.1 Resigns in writing his/her office or dies;
 - 7.2.15.2 If he/she become insolvent, or if he/she surrenders his/her estate for a benefit of his/her creditors, or makes an offer of compromise to his/her creditors in circumstances where his/her liabilities exceeds his/her assets;
 - 7.2.15.3 If he/she become unsound of mind;
 - 7.2.15.4 If he/she is directly or indirectly interested in any contract with the Company and fails to declare the nature and details of his/her interest in writing to the Board at the first reasonable opportunity, or having declared such nature and details to the Board, having failed to obtain written permission from the Board to continue with such contract;
 - 7.2.15.5 If he/she is absent without consent, or if his/her apology is not accepted for, two consecutive meetings of the Board of Directors;
 - 7.2.15.6 If he/she is found guilty by the disciplinary tribunal of contravening the Code of Ethics and Professional Responsibility or of unprofessional conduct, and sentenced to:
 - 7.2.15.6.1 A fine exceeding an amount to be determined by the Board of Directors from time to time and published for the information of the Members; or
 - 7.2.15.6.2 Termination of Membership for any period of time, and a period of 10 [ten] years since such finding by the disciplinary tribunal has not elapsed;
 - 7.2.15.7 If he/she is elected as a Director or serves on any committee of another similar body with conflicting objectives, without the written consent of the Board of Directors;
 - 7.2.15.8 If in terms of the Act or in terms of common law, he/she becomes unfit to serve as a Director;
 - 7.2.15.9 If his/her actions are, in the opinion of two thirds of the Board of Directors, detrimental to the Company or its members.

7.3 Casual Vacancies on the Board:

The Board of directors are authorised to fill any casual vacancy on the Board on a temporary basis, in terms of section 7.2 of the MOI, provided the Members are notified of such appointments and such appointments are confirmed at the next Annual General Meeting.

7.4 Removal of a Director:

- 7.4.1 Having applied the rules of natural justice, the Board of Directors, the Annual General Meeting/Special General Meeting may, subject to section 71 and/or

section 162 and/or section 76 of the Act, remove any Director from his/her Directorship before the expiration of his/her period of office on the grounds detailed in section 7.2.15 above or in the Act. Such Director may be suspended during the time of such investigation during which period he/she shall not be entitled to any of his/her rights or obligations as a Director of the Company.

- 7.4.2 These provisions shall apply *mutatis mutandis* to any Member serving on a Board Committee.

7.5 Declaration of Interest:

- 7.5.1 subject to the provisions of section 75 of the Act, a Director shall not vote in respect of any contract with the Company he is interested in, or any matter arising there from;
- 7.5.2 if a Director of a company, has a personal financial interest in respect of a matter to be considered at a meeting of the Board, or knows that a related person has a personal financial or other interest in the matter, the Director:
- 7.5.2.1 must disclose the interest and its general nature before the matter is considered at the meeting;
 - 7.5.2.2 must disclose to the meeting any material information relating to the matter, and known to the Director;
 - 7.5.2.3 may disclose any observations or pertinent insights relating to the matter if requested to do so by other Directors;
 - 7.5.2.4 if present at the meeting, must leave the meeting immediately after making any disclosure contemplated in section 7.5.2.2 or 7.5.2.3 above;
 - 7.5.2.5 must not take part in the consideration of the matter, except to the extent contemplated in section 7.5.2.2 or 7.5.2.3;
 - 7.5.2.6 while absent from the meeting in terms of this subsection:
 - 7.5.2.6.1 is to be regarded as being present at the meeting for the purpose of determining whether sufficient Directors are present to constitute the meeting; and
 - 7.5.2.6.2 is not to be regarded as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted;
 - 7.5.2.7 must not execute any document on behalf of the Company in relation to the matter unless specifically requested or directed to do so by the Board;
- 7.5.3 Directors are required to declare personal interest at every Board meeting to the Chairperson of the Board.

7.6 Election of Chairperson

- 7.6.1 At the first meeting or whenever thereafter necessary, the newly elected Board of Directors shall elect from amongst the Directors a Chairperson of the Board of Directors, to act for a period of 3 [three] years, provided that:
- 7.6.1.1 The sitting Chairperson-elect shall automatically be deemed to be the Chairperson elected by the Board, unless the Board decides, by majority, that such election as Chairperson is not appropriate; or
 - 7.6.1.2 If the Chairperson-elect declines such election;
- 7.6.2 At such meeting the outgoing Chairperson, or failing him/her, the CEO, shall act as Chairperson of the meeting until the newly elected Chairperson can take his/her position as Chairperson of the Board;
- 7.6.3 No candidate may be nominated without his/her consent;
- 7.6.4 The candidate receiving by simple majority the higher number of votes shall be declared Chairperson and all Members of the Company shall be informed accordingly as soon afterwards as is practical. If there are more than two candidates and no candidate receives a simple majority of the votes, the candidate receiving the least number of votes shall automatically fail to continue and further round of voting shall be held with the remaining candidates until a candidate receives a simple majority of votes;
- 7.6.5 In the event of a tie between two or more candidates, the CEO or his/her duly appointed deputy shall draw lots in the presence of all the Directors at the meeting to determine the results;
- 7.6.6 The elected Chairperson shall assume office when the newly elected Board is constituted, which shall always be within 21 [twenty one] days from the conclusion of the Annual General Meeting. Such Chairperson shall, subject to him/her not being in conflict with the provisions above:
- 7.6.6.1 Remain in office until the following Chairperson is elected in terms of this Memorandum;
 - 7.6.6.2 Remain a Director until the end of the meeting at which the following Board of Directors is constituted.
- 7.6.7 In the event of the death, resignation or removal from office of the Chairperson, the Chairperson-elect shall *ex officio* assume the office of the Chairperson for the remaining period of such office, failing him/her, the CEO shall immediately call for nominations in order to have a new Chairperson elected for the remainder of the term.

7.7 Board of Directors Meetings:

- 7.7.1 The Board of Directors are authorised to consider a matter other than at a formal meeting. A decision may be adopted by "Round Robin" resolution with the approval of the majority of Directors given in person or by electronic communication, provided each Director has received notice of the matter;

- 7.7.2 The new Board of Directors shall be constituted within 60 [sixty] days after the conclusion of the Annual General Meeting;
- 7.7.3 The Board of Directors shall convene as frequently as it decides, but at least 3 [three] time each year. A special meeting of the Board of Directors may be called either:
- 7.7.3.1 by resolution of the Board; or
- 7.7.3.2 by the Chairperson whenever he deems it expedient to do so; or
- 7.7.3.3 by at least 25% [twenty five per cent] of the voting members of the Board;
- 7.7.4 The Board of Directors may decide by simple majority, to facilitate any meeting by using electronic conferencing technology or any other medium through which Directors who are not physically in the same location can fully participate with full video and/or audio facilities instead of convening in person at a specific venue. Directors present in person at such other locations and connected by using the said conferencing technology shall be deemed to be present in person for all purposes envisaged in this Memorandum;
- 7.7.5 The CEO shall convene such a meeting by giving at least 14 [fourteen] days written notice of such meeting provided that, in the event of business, which is extremely urgent in the opinion of the Chairperson, with the written support of 4 [four] other Directors, only 7 [seven] Business Days' notice shall be given, unless the majority of Directors waive such notice in writing;
- 7.7.6 The Board of Directors may proceed with a meeting despite a failure or defect in giving notice of the meeting, as set in 7.7.5 above;
- 7.7.7 In the event of neither the Chairperson nor the Chairperson Elect being present, an acting Chairperson shall be elected from the Directors present under the interim Chairpersonship of the CEO, to preside at the meeting;
- 7.7.8 All decisions shall be taken by a majority of Directors present. The Chairperson, or whoever is presiding, shall have a casting vote in addition to his/her ordinary vote;
- 7.7.9 All votes shall be taken by a show of hands or verbal confirmation unless the meeting adopts a motion that a vote is taken by ballot;
- 7.7.10 The Board of Directors may regulate and adjourn its meeting as it thinks fit;
- 7.7.11 Any member of the Board of Directors may be reimbursed for reasonable authorised expenses actually incurred in attending any meetings attended at the request of the Board of Directors;
- 7.7.12 A quorum of the Board of Directors shall consist of at least a simple majority of Directors eligible to vote. Any decision taken without the quorum being present shall be null and void;
- 7.7.13 If, within 30 [thirty] minutes after the time appointed for a Board Meeting a quorum is not present, such meeting shall stand adjourned to the same time and place on a day 5 [five] business Days after the date of the meeting and with written notice by facsimile or email to all Directors; and

- 7.7.14 The Directors present at such an adjourned meeting shall be a quorum, irrespective of the number of Directors present;
- 7.7.15 In the event that a Director cannot attend a meeting of the Board, the following arrangements shall apply:
- 7.7.15.1 an Elected Director may nominate any other Director to act as his/her proxy;
- 7.7.15.2 All proxy nominations shall be made by notification in writing to the Chairperson before the commencement of the meeting of the Board, and the Chairperson shall disclose all proxy nominations to the meeting before the transacting of any business at such meeting;
- 7.7.16 The votes at a Board Meeting shall be weighted as 1 [one] vote for each Director;
- 7.7.17 A resolution in writing signed by all the Directors for the time being shall be valid and effectual as if it has been passed at a meeting of the Board, duly convened and held, and may consist of several documents, each signed by all the Directors. Unless otherwise stated in the resolution concerned, it shall be deemed to have been passed upon the date which it was signed by the last signatory, and a resolution shall be deemed to have been signed if consent thereto has been given and the message transmitted by facsimile or email and purporting to emanate from the person whose signature to such resolution is required.

7.8 Financial Assistance to Directors or Prescribed Officers:

The Company is not authorised to provide financial assistance to a Director or prescribed officer.

8. GENERAL MEETINGS

8.1 Annual General Meeting:

- 8.1.1 The Annual General Meeting (“the AGM”) of the Company shall be held on such a day at such a time and venue, as the Board of Directors may determine, but not later than 6 (six) months from the end of the financial year-end. A notice of the meeting together with an agenda shall be forwarded not less than 15 (fifteen) business days in advance to each Member in accordance with the provisions of section 8.4 hereof.
- 8.1.2 The AGM may be held in more than one physical location simultaneously, provided that all the locations are linked by using video conferencing technology or any other medium through which Members who are not physically in the same location as the Chairperson can participate fully, with full video and audio facilities. Members present in person at such other location(s) shall be deemed to be present in person for all purposes envisaged in this Memorandum;
- 8.1.3 The AGM shall deal and dispose of all matters prescribed by the Act, including:

- 8.1.3.1 The receiving and consideration of the Annual Financial Statements;
- 8.1.3.2 The consideration and approval of the Report of the Board of Directors;
- 8.1.3.3 The audit committee report;
- 8.1.3.4 Appointment of the auditor for the ensuing financial year;
- 8.1.3.5 Appointment of the audit committee;
- 8.1.3.6 The consideration of any and all other matters of which due notice has been given;
- 8.1.3.7 The consideration to authorise the Board to grant financial assistance between the company and related or inter-related companies as contemplated in section 45 (3) (a) (ii) of the Act;
- 8.1.4 Any Member may move resolutions, provided preceding notice of such resolution, in writing and signed by himself and one other Member, has been received by the CEO, at least 21 (twenty one) days prior to such meeting, at the registered office of the Company. Upon receipt of such notice, the CEO shall, in any case where the notice is received before the notice of the meeting is issued include it in the notice of meeting, and shall in any other case, give notice to the Members as quickly as possible that such resolution will be proposed. Such resolutions, if adopted, shall be binding on the Board of Directors, subject to the right of the Board of Directors to require the said resolution to be confirmed by the majority of Members voting thereon by postal or electronic vote, or by facsimile or email;
- 8.1.5 The Chairperson may with the consent of any meeting at which a quorum is present (and shall if so dictated by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned, the provisions of section 64 of the Act shall apply *mutatis mutandis* to such adjournment;
- 8.1.6 The Board shall determine the venue for the AGM;
- 8.1.7 10 (ten) Members who are present in person shall form a quorum;
- 8.1.8 At the request of at least 10 [ten] Members, that voice in writing to the CEO their dissatisfaction with any decision taken at an AGM or a Special General Meeting, shall be put out to all Members for a general ballot.

8.2 Special General Meeting

- 8.2.1 A Special General Meeting shall be called either:
 - 8.2.1.1 by resolution of the Annual General Meeting; or
 - 8.2.1.2 by resolution of the Board of Directors; or

- 8.2.1.3 at the request in writing of not less than 10 (ten) Members of the Company setting forth the terms of the motion to be proposed;
- 8.2.2 A written notice of a Special General Meeting, including the nature of the business to be transacted, the date, time and venue, shall be given to all Members of the Company at least 15 business days prior to such meeting;
- 8.2.3 The provisions of section 8.1.5 up to and including 8.1.7 shall *mutatis mutandis* be applicable to a Special General Meeting;
- 8.2.4 Resolutions passed at a Special General Meeting shall be referred to the Board of Directors for such actions as may be necessary.

8.3 Procedure at Meetings of the Company:

- 8.3.1 The Chairperson, or in his/her absence, the Chairperson elect shall take the chair. Where both are absent, the meeting shall elect a Chairperson from the members of the Board of Directors;
- 8.3.2 At all general meetings all votes shall be taken by a show of hands or verbal confirmation of Members unless the Chairperson or any 5 (five) Members present demand a poll;
- 8.3.3 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 meeting at which the poll was demanded;
- 8.3.4 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 is demanded;
- 8.3.5 In the case of a tie, the Chairperson shall be entitled to exercise a casting vote;
- 8.3.6 Subject to any rule of by-law and/or regulation to the contrary, every voting member shall have 1 (one) vote subject to the conditions contemplated in section 6.2 of this Memorandum;
- 8.3.7 No Member shall under any circumstances be entitled to be present or vote (either as a proxy or in his/her personal capacity) at any meeting of the Company unless such a Member has duly and timeously complied with all prescribed membership requirements, including recertification, of the Company;
- 8.3.8 Votes may be cast either personally or by written proxy;
- 8.3.9 The accidental omission to give notice of any meeting to any particular Member or Members shall not invalidate any resolution passed at any such meeting, provided that where no notice has been dispatched to more than 5 (five) per centum of the total membership for whom the Company is in possession of an address, distributed pro rata over the Regions, it shall be deemed that proper notice of the meeting has not been given to Members;

8.3.10 No business shall be transacted at any meeting unless a quorum of Members is present at the time when the meeting precedes to business.

8.4 Notices of General Meetings

8.4.1 A notice via letter, e-mail or facsimile may be given by the Company to any member personally or by sending it by post to him/her at his/her registered address, or (if he/she has no registered address within the area within which the Company operates) to the address, including an e-mail address or facsimile number, if any, within such area supplied by him/her to the Company for the giving of notices to him/her;

8.4.2 A notice shall be deemed to have been served:

8.4.2.1 Within 1 (one) business day after the communication containing the notice was facsimiled or e-mailed to the address for such Member on record with the Company; or

8.4.2.2 Within 7 (seven) business days from the time the communication containing the notice was posted by prepaid registered mail to the postal address, which the Company has on record for the Member.

8.5 Minutes and Resolutions

8.5.1 Minutes shall be kept of all resolutions and proceedings of General Meetings, and meetings of the Board of Directors;

8.5.2 All minutes and resolutions must be dated and sequentially numbered and pasted into a minute book;

8.5.3 For an ordinary resolution to be adopted at a members meeting, it must be supported by at least 50% (fifty percent) of the Members who voted on the resolution;

8.5.4 For a special resolution to be adopted at a members meeting, it must be supported by at least 75% (seventy-five percent) of the Members who voted on the resolution;

8.5.5 A special resolution is required to:

8.5.5.1 ratify a considered revision of a company's Memorandum of Incorporation, as contemplated in section 18(1)(b) of the Act;

8.5.5.2 ratify actions by the Company or directors in excess of their authority, as contemplated in section 20(2) of the Act;

8.5.5.3 approve any proposed fundamental transaction.

9. COMMITTEES

9.1 Sub-Committees

- 9.1.1 The Board of Directors may constitute Sub-Committees:
 - 9.1.1.1 as it deems fit from time to time;
 - 9.1.1.2 as contemplated in Chapter 3 of the Act;
 - 9.1.1.3 as proposed in King III;
- 9.1.2 Such Board Sub-Committees shall act as oversight and advisory committees to the Board and the Chairpersons of the Sub-Committees in collaboration with the CEO shall table a report on behalf of each Board Sub-Committee and its activities to the Board as and when so requested by the Board;
- 9.1.3 The authority and terms of reference for each Board Sub-Committee appointed by the Board, shall be stipulated in each Committee's regulations compiled by the Board of Directors;
- 9.1.4 The Board or CEO may appoint appropriate professionals from the Company or Industry to assist the Board, CEO and/or Board Sub-Committees.

10. GENERAL PROVISIONS

10.1 Amendments to the Memorandum of Incorporation

- 10.1.1 Subject to the provisions of section 8.5.3 and 8.5.4 the Board of Directors may consider proposed amendments to the Memorandum. The proposed amendments shall be put to the voting members by way of a motion to be decided upon by:
 - 10.1.1.1 postal ballot; or
 - 10.1.1.2 a General Meeting of Members;
 - 10.1.1.3 or by ballot through an appropriate electronic medium, provided that such electronic medium is capable of providing proof of the sending and receiving, as well as the content of the ballot;
- 10.1.2 The motion shall be carried if the majority of the votes are in favour thereof;
- 10.1.3 An amendment of its Memorandum must be effected by an ordinary resolution filed with the Commission;
- 10.1.4 An amendment may take the form of a new Memorandum that substitutes the existing Memorandum or contain some or more alterations to the existing Memorandum by:
 - 10.1.4.1 changing the name of the Company;
 - 10.1.4.2 deleting, altering or replacing any of its provisions;
 - 10.1.4.3 inserting any new provisions into the Memorandum; or

- 10.1.4.4 making any combinations of alterations;
- 10.1.5 The amendment or alteration of the Memorandum may be:
- [a] in compliance with a court order effected by a resolution of the Company's Board;
 - [b] by special resolution of the Members but subject to that special resolution having been proposed by [i] the Board, or [ii] by the Members entitled to exercise at least 10% of the voting rights that may be exercised on such a resolution;
- 10.1.6 After amending its Memorandum of Incorporation, the Company must file a Notice of Amendment with the Commission in accordance with the requirements contemplated in sections 16 [7] and [8];
- 10.1.7 An amendment to this Memorandum of Incorporation takes effect:
- [a] 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 Commission; or
 - [b] in any other case, on the later of:
 - [i] the date on, and time at, which the Commission accepts the filing of the Notice of Amendment; or
 - [ii] the date, if any, set out in the Notice of Amendment;
- 10.1.8 The Board has authority to make, amend or repeal any necessary or incidental rules relating to the governance as contemplated in section 15 [3] to [5] in respect of matters that are not addressed in this Memorandum of Incorporation, or the Act, and is not limited or restricted in any manner by this Memorandum of Incorporation, by:
- [a] publishing any rules made in terms of section 15 [3] to [5] by delivering a copy of such rules to each Director;
- 10.1.9 Any necessary or incidental rules made, amended or repealed as contemplated in clause 2.4 [5]:
- [a] take effect on the later of:
 - [i] ten business days after the rule is filed with the Commission; or
 - [ii] the date, if any, specified in the rule; and
 - [b] are binding:
 - [i] on an interim basis from the time it takes effect until it is put to a vote at the next general Members meeting of the Company; and
 - [ii] on a permanent basis only if it has been ratified by an ordinary resolution at the meeting contemplated in clause 2.4 [6][b][i].
- 10.1.10 Limitation of liability - no person shall solely by reason of being an Incorporator, Member or Director of the Company be liable for any liabilities or obligation of the Company.

10.2 Prohibition on Distribution of Income and Property

The income and property of the Company, however derived, will be applied solely towards the promotion of its objects and no portion of it will be paid for or transferred, directly or indirectly by way of dividend bonus or otherwise to the Members of the Company, but nothing contained in this Memorandum of Incorporation will prevent any payment in good faith of reasonable remuneration to any officer, servant or employee of the Company or to any Member in return for any services actually rendered to the Company.

10.3 Dissolution and Winding-Up:

- 10.3.1 The Company shall be wound up, deregistered or dissolved, the assets of the Company remaining after the satisfaction of all its liabilities shall be given or transferred to some other association or institution or associations or institutions having objects similar to its main object, to be determined by the members of the Company at or before the time of its dissolution or, failing such determination, by a Court of law;
- 10.3.2 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;
- 10.3.3 The entire net value of the company must be distributed to one or more non-profit companies, registered external non-profit companies carrying on activities within the Republic, voluntary associations or non-profit trust which have similar objects to the Company's main objects;
- 10.3.4 The Company's main objects may be determined in terms of the Company's Memorandum of Incorporation or by its Member 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.

10.4 Mediation and Arbitration:

- 10.4.1 All disputes arising out of or relating to this Memorandum including disputes as to the meaning or interpretation of any of its provision or as to the quantification or determination of any amount or thing required to be determined or quantified in terms of or pursuant to this Memorandum, will be referred, if the matter cannot be resolved between the disputing parties directly, to mediation by a mediator appointed by Alternative Dispute Resolution Association of South Africa [ADRASA] or in the event of ADRASA not being in existence, the Independent Mediation Services of South Africa [IMSSA], or in the event of neither body being in existence, such body as the parties may agree;
- 10.4.2 The parties intend that the mediator will consider and if possible determine the dispute within 7 [seven] days which may be extended by written agreement between the parties. If the dispute cannot be resolved in this manner, then it will be referred to arbitration as provided hereunder:

- 10.4.3 Any dispute arising out of or in connection with:
 - 10.4.3.1 The interpretation of
 - 10.4.3.2 The effect of;
 - 10.4.3.3 The implementation of;
 - 10.4.3.4 The parties' respective rights and obligations under;
 - 10.4.3.5 A breach of;
 - 10.4.3.6 Any matter arising out of or in connection with;
rectification of this Memorandum and which has not been resolved
as provided for elsewhere in this Memorandum shall be decided by
arbitration in the manner set out below;
- 10.4.4 Such arbitration shall be held subject to the provisions of this section:
 - 10.4.4.1 At Johannesburg;
 - 10.4.4.2 Informally;
 - 10.4.4.3 On such rules as to procedure set by the Arbitration Foundation of
South Africa [AFSA] or otherwise in accordance with the provisions
of the Arbitration Act 42 of 1965, as amended, and
 - 10.4.4.4 Confidentially;
- 10.4.5 It being the intention that, if possible, the arbitration shall be held and
concluded within 21 [twenty one] business days after it has been demanded;
- 10.4.6 The arbitrators shall be, if the question in issue is:
 - 10.4.6.1 Primarily an accounting matter, a practising Chartered Accountant
of not less than 15 [fifteen] years' standing, as agreed upon
between the parties;
 - 10.4.6.2 Primarily a legal matter, practising Senior Counsel, as agreed
upon between the parties;
 - 10.4.6.3 Any other matter, a suitably qualified and experienced person, as
agreed upon between the parties;
- 10.4.7 Any other matter, a suitably qualified and experienced person, as agreed
upon between the parties;
- 10.4.8 If the parties cannot agree upon:
 - 10.4.8.1 Whether any dispute is, for purposes of section 10.3.5. an
accounting matter, a legal matter or any other matter within 7
[seven] business days after the arbitration has been demanded the
such matter shall be deemed to be a legal matter and shall be
dealt with in terms of 10.3.5.2;

- 10.4.8.2 The appointment of arbitrator then such appointment shall on demand from either of the parties be finally decided upon and determined by the Chairperson for the time being of the Johannesburg Bar Council, or if such body no longer exists, by the President or Chairperson for the time being of the body having regulatory powers over Advocates practising in the Johannesburg, within 10 [ten] business days after arbitration has been demanded, which determination shall be final and binding upon the parties;
- 10.4.9 The parties irrevocably agree that any decision in such arbitration proceedings:
- 10.4.9.1 Shall be binding on them;
- 10.4.9.2 Shall be carried into effect;
- 10.4.9.3 May, at the discretion of any of the parties, be made an order of any court of competent jurisdiction;
- 10.4.9.4 Shall include such order as to costs as the arbitrators deem fit;
- 10.4.10 The provisions of section shall not preclude any party from access to an appropriate court of law for:
- 10.4.10.1 Interim relief in the form of an interdict, *mandamus* or order for specific performance pending the outcome of an arbitration in terms hereof or in respect of such arbitration; or
- 10.4.10.2 Any other form of relief on the basis of facts which are not disputed provided that if a *bona fide* dispute arises in the course of the proceedings the court proceedings shall be stayed pending an arbitration of the dispute in terms thereof.

10.5 Amalgamation and Fundamental Transactions

Subject to the provision of section 2 of Schedule 1 (as amended) to the Act, with the approval of the Board of Directors, where only non-interested Directors have participated in the process, the matter must be laid before the Members and not less than 75% (seventy five) percent of voting Members who are present in person or by proxy at a General Meeting duly convened and constituted for that purpose, the Company may dispose all or any part of its assets, amalgamate or incorporate or join with other bodies in the Republic of South Africa or elsewhere in Southern Africa, provided these other bodies have objectives similar to those of the Company and are exempt from liability to pay income tax. For this purpose the Company may take over and assume the assets and liabilities of the aforesaid bodies including books, records, documents and coats of arms or make over part or all of the assets and liabilities of the Company.

10.6 Code of Conduct

The Board shall formulate a Code of Conduct and Practice, which shall bind all the Members of the Company. The Board shall be entitled to amend the Code of Conduct and Practice from time to time.