

**COMPANIES ACT, 71 OF 2008**

**MEMORANDUM OF INCORPORATION OF A NON-PROFIT COMPANY WITH MEMBERS**

**NAME OF COMPANY:**

**SABRITA BRITISH CHAMBER OF BUSINESS IN SOUTHERN AFRICA NPC  
(TRADING AS BRITISH CHAMBER OF BUSINESS IN SOUTHERN AFRICA)**

**REGISTRATION NUMBER: 1965/004222/08**

This Memorandum of Incorporation was adopted by special resolution passed by the **Members** of the **Company** on \_\_\_\_\_ in substitution for the existing memorandum and articles of association of the **Company**.

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## 1. INTERPRETATION

- 1.1 The Memorandum of Incorporation in the prescribed form as contemplated in section 13(1)(a)(i) of the Companies Act of 2008 shall not apply to the **Company**.
- 1.2 In this Memorandum of Incorporation -
- 1.2.1 a reference to a section by number refers to the corresponding section of the Act;
- 1.2.2 words that are defined in the **Act** bear the same meaning in this **Memorandum** as in that **Act**;
- 1.2.3 words importing any gender shall include the other gender;
- 1.2.4 the singular shall include the plural and *vice versa*;
- 1.2.5 the heading have been inserted for convenience only and shall not be used for or assist or affect the interpretation of the content;
- 1.2.6 each of the following words and expressions shall have the meaning stated opposite it and cognate expressions shall have a corresponding meaning, namely:
- 1.2.6.1 "**Act**" means the Companies Act, 71 of 2008, together with the Companies Regulations, 2011, as amended or substituted from time to time;
- 1.2.6.2 "**Board**" shall mean the board of directors of the **Company** as constituted from time to time in terms of clause 7.1 below;
- 1.2.6.3 "**Business Day**" has the meaning assigned to it in section 5(3) of the Act, meaning specifically any day other than a Saturday, Sunday or official public holiday in the Republic;
- 1.2.6.4 "**Company** shall mean SABRITA British Chamber of Business in Southern Africa NPC, trading as British Chamber of Business in Southern Africa;
- 1.2.6.5 "**Country**" shall mean the Republic, the United Kingdom of Great Britain and Northern Ireland;
- 1.2.6.6 "**Directors**" means the directors for the time being of the **Company**;
- 1.2.6.7 "**Electronic Communication**" has the meaning set out in section 1 of the Electronic Communications and Transactions Act, Act 25 of 2002;
- 1.2.6.8 "**Honorary Member**" shall mean a member with no voting rights admitted to membership in terms of clause 6.2;
- 1.2.6.9 "**Income Tax Act**" shall mean the Income Tax Act, No 58 of 1962, as amended from time to time;

- 1.2.6.10 “**Juristic Person**” means an entity (such as a firm) other than a natural person (human being) created by law and recognized as a legal entity having distinct identity, legal personality, and duties and rights, and includes a foreign company and a trust;
- 1.2.6.11 “**Members**” shall mean a registered Member or Members of the **Company** as referred to in this **Memorandum**;
- 1.2.6.12 “**Memorandum**” shall mean this Memorandum of Incorporation and includes its Schedules, if any, which form part of it;
- 1.2.6.13 “**Non-Profit Company**” means a company -
- 1.2.6.13.1 incorporated for public benefit or other objects as required by item 1(1) of Schedule 1 of the **Act**; and
- 1.2.6.13.2 the income and property of which are not distributable to its incorporators, members, directors, officers or persons related to any of them except to the extent permitted by item 1(3) of schedule 1 of the **Act**;
- 1.2.6.14 “**Public Benefit Activity**” means a public benefit activity as defined in section 30 of the **Income Tax Act**;
- 1.2.6.15 “**Public Benefit Organisation**” means a public benefit organisation as defined in the **Income Tax Act**;
- 1.2.6.16 “**Republic**” shall mean the Republic of South Africa; and
- 1.2.6.17 “**Rules**” shall mean means any necessary or incidental rules relating to the governance of the **Company** in respect of matters that are not

addressed in the **Act** or the **Memorandum**, as contemplated in section 15(3) to (5) of the **Act**.

- 1.3 This **Memorandum** does not impose any liability on any person for the liabilities or obligations of the **Company**, in addition to those set out in the **Act**.

## 2. **INCORPORATION AND NATURE OF THE COMPANY**

- 2.1 The **Company** was incorporated as a **Non-Profit Company** with **Members**. This **Memorandum** shall replace all existing Memorandum of Incorporations and/or Memorandum and Articles of Association of the **Company**.

- 2.2 The **Company** is incorporated in accordance with, and governed by -

2.2.1 the unalterable provisions of the **Act** that are applicable to **Non-Profit Companies**;

2.2.2 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

2.2.3 the provisions of this **Memorandum**.

## 3. **OBJECTS, VISION, MISSION AND POWERS OF THE COMPANY**

- 3.1 The objects, vision and mission of the **Company** are to:

3.1.1 promote, study, foster, advance and protect such trading, commercial, and industrial interests in the **Countries** as are, in either **Country** and/or region, directly or indirectly associated with manufacturers, commercial organisations, trading associations and similar bodies carrying on their business or activities in the other **Country**;

3.1.2 emphasise at all times to people and governments of the United Kingdom and the Southern African region the importance to each of the others trading, investment, transport, technical and other potential;

3.1.3 provide and develop business services to **Members** and others and in particular (but without prejudice to the generality of the foregoing);

3.1.4 to collect analyse or disseminate information (including statistics and other economic and business information) on all subjects of interest to **Members**;

3.1.5 act as training agents and to provide educational and other courses from time to time;

3.1.6 promote, organise and participate in international trade forums/missions/events from time to time;

- 3.1.7 encourage establish and support employment initiatives and initiatives for the start -up of businesses and enterprises;
- 3.1.8 represent in the **Countries** and elsewhere, and to promote and protect the collective interests views and opinions of the Members, and stimulate interest in and promote support or oppose any legislation or policies (whether local, municipal, regional, national or international) affecting the interests of commerce industry trade services transport and education;
- 3.1.9 to promote high standards of business and the recognition and use of national and international standards as well as good corporate governance;
- 3.1.10 to provide a means of advocating business involvement, corporately and individually, in the local community or communities, to develop business links with and between enterprises and authorities, to develop and foster working relationships both within and outside the locality that will achieve the greatest prosperity for the locality and its people and to stimulate public awareness of business interest;
- 3.1.11 enforce all policy/ies ratified and/or passed by the **Company** by time-to-time.
- 3.2 In furtherance of the principal objects but not otherwise the **Company** shall also have power:
  - 3.2.1 to purchase, take on lease or in exchange, hire or otherwise acquire any real and personal estate which may appear convenient. For the purposes of achieving the objects, vision and mission of the **Company**;
  - 3.2.2 to accept any gift of property, whether subject to any special trust or not, for any purpose within the principal objects;
  - 3.2.3 to take such steps by personal or written appeals, public meetings or otherwise as may seem expedient for the purpose of procuring contributions to the funds of the **Company**;
  - 3.2.4 to produce any newspapers, periodicals, books, leaflets or computer programs, electronic data and other works and publications and to produce films and other audio or visual aids;
  - 3.2.5 to borrow and raise money and secure its repayment in any manner;
  - 3.2.6 to invest the funds of the **Company** in or upon such investments, securities or property as may be thought fit;
  - 3.2.7 to establish and support, and to aid in the establishment and support of, any other association formed to promote all or any of the principal objects;
  - 3.2.8 to coordinate activities and liaise with companies, institutions, societies, or associations having objects wholly or in part similar to those of the **Company**;

- 3.2.9 to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any body with which the **Company** is authorised to do;
- 3.2.10 to transfer all or any part of the property, assets, liabilities and engagements of the **Company** to anybody with which the **Company** is authorised to do;
- 3.2.11 to do all such other lawful things as are incidental or conducive to the pursuit or to the attainment of any of the principal objects.
- 3.3 The income of the **Company**, from wherever derived, shall be applied solely in promoting the above objects, and no distribution shall be made to its **Members** in cash or otherwise.
- 3.4 Except to the extent necessarily implied by the stated objects, the purposes and powers of the **Company** are not subject to any restrictions, limitations or qualifications as contemplated in section 19(1)(b)(ii) of the **Act**.
- 3.5 The **Company** is not subject to any restrictions contemplated in section 15(2)(b) or (c) of the **Act**.

#### 4. **RULES AND AMENDMENT OF MEMORANDUM OF INCORPORATION**

- 4.1 The authority of the **Company's Board** to make **Rules** for the **Company**, as contemplated in section 15(3) to (5) is not limited or restricted in any manner by this **Memorandum**.
- 4.2 The **Board** must publish any **Rules** made in terms of section 15(3) to (5) within 10 (ten) **Business Days** after being approved by the **Board** by delivering a copy of those **Rules** to each **Member** by electronic communication or by ordinary mail.
- 4.3 This **Memorandum** may be altered or amended only in the manner set out in sections 16, 17 or 152(6)(b) of the **Act**.
- 4.4 The **Board** must publish a notice of any alteration of this **Memorandum** or the **Rules**, made in terms of section 17(1) of the **Act** within 10 (ten) **Business Days** after being approved by the **Board**, by delivering a copy of those alterations to each **Member** by electronic communication or by ordinary mail.

#### 5. **OPTIONAL PROVISIONS OF THE COMPANIES ACT, 2008**

##### 5.1 **Annual financial statements**

The **Company** elects to voluntarily audit its annual financial statements as provided for in section 30(2)(b)(ii) of the **Act**.

##### 5.2 **Auditor**

For purposes of the audit of its annual financial statements, the **Company** shall appoint an auditor and comply with the provisions of Part C of Chapter 3 of the **Act**.

### 5.3 Other

But for the above, the **Company** does not elect, in terms of section 34(2) of the **Act**, to comply voluntarily with any of the other provisions of Chapter 3 of the **Act**.

## 6. MEMBERS

### 6.1 Admission

#### 6.1.1 Membership shall be open to<sup>i</sup>:-

6.1.1.1 individuals who are in business on their own account in the United Kingdom and/or Southern Africa;

6.1.1.2 companies, corporations, firms and other organisations engaged or interested in commerce, industry, trade services, transport and education;

6.1.1.3 members of professions who have an interest in commerce industry trade services transport and education; and

6.1.1.4 any other individuals, companies, corporations, firms or other organisations whom the **Board** may in its absolute discretion admit to membership.

#### 6.1.2 The **Board** may admit to **Honorary Membership** of the **Company** for such period as it may determine :

6.1.2.1 individuals whom the **Board** considers are distinguished in statesmanship diplomacy commerce industry trade services transport and education;

6.1.2.2 individuals whom the **Board** considers have rendered special service to the **Company**, or to the **Company** network.

6.1.3 An **Honorary Member** shall receive notice of and shall be entitled to attend all meetings to speak but not vote. An **Honorary Member** shall not be required to sign any application for membership or to pay any fees or subscription weighting of votes, nor shall he be or be deemed to be a **Member** liable to contribute any amount on the winding-up of the **Company**.

6.1.4 Every **Member** shall be obliged to comply with the provisions of this **Memorandum** and the rights of each **Member** shall be as follows:

6.1.4.1 to vote at every general meeting of the **Company** in accordance with clause 7.2 below, except where any of the clauses provides otherwise;



- 6.1.4.2 to contribute to the accomplishment of the objectives of the **Company**, within the limits of their skills and commitments; and
- 6.1.4.3 to require and obtain, in accordance with the objectives of the **Company**, information on matters related to the **Company** itself.
- 6.1.5 Persons wishing to apply for membership of the **Company** shall make application to the **Board** in such manner and on such application form as the **Board** shall from time to time prescribe. In this respect, applications for membership shall be submitted to the **Board** and shall be accompanied by any documents likely to assist the **Board** in considering the application. An application for membership of the **Company** shall be deemed to include an undertaking by such an applicant to subscribe to and be bound by this **Memorandum**, the **Company's** policies as laid down (including "general standards, ethics and practice"), the **Rules** and such ethical standards as are laid down by any entity to which the **Company** is a subscribing member.
- 6.1.6 The decision to admit an applicant for membership, to decide the class of membership pertaining to such applicant or to reject the application shall be at the sole and absolute discretion of the **Board**. The decision of the **Board** in this regard shall be final and binding and there shall be no basis of any appeal against such decision.
- 6.1.7 An applicant for membership shall only be admitted with the consent of the **Board**, provided that the applicant pays to the **Company** the current annual subscription and/or membership fees as determined by the **Board** from time to time. Whilst any **Member** is indebted to the **Company** in respect of membership fees, which are due and payable, the **Board** may, at its sole discretion, suspend any vote or right or attendance that **Member** or its representative may enjoy.
- 6.1.8 The **Board** shall have the power to terminate a **Member's** membership of the **Company** by a majority vote if:
  - 6.1.8.1 its annual subscription, if applicable, or any other sum due to the **Company** is 3 (three) months in arrears;
  - 6.1.8.2 in the sole discretion of the **Board**, such **Member** is guilty of conduct inimical to the interests and/or objects of the **Company**;
  - 6.1.8.3 in the sole discretion of the **Board**, it is inimical to the interests of the **Company** that such **Member** should continue as a **Member** of the **Company**.
- 6.1.9 A **Member** whose membership has been terminated shall remain liable for all sums that may at the date of termination of his membership be due by him to the **Company** and shall not be entitled to any refund of subscription monies already paid, nor have any claim against the **Company** or its officers, its property or its funds.
- 6.1.10 A **Member** shall automatically cease to be a **Member** of the **Company** if:
  - 6.1.10.1 its membership is terminated in terms of clause 6.1.8 above;

- 6.1.10.2 upon the issue of a final order of liquidation and/or sequestration in respect of the **Member** concerned, or if the **Member** is placed under Business Rescue;
- 6.1.10.3 upon its resignation in terms of clause 6.1.11 below; or
- 6.1.10.4 he or she is convicted of a criminal offence and the **Board** considers the criminal offence to be of such a serious nature that the **Member** should cease to be a **Member** in order to safeguard the reputation, goodwill and image of the **Company**.
- 6.1.11 Any **Member** may resign by giving at least 6 (six) month's written notice to the **Board**.
- 6.1.12 Termination of membership shall take effect immediately after notice in writing to the **Member** concerned of such termination, or acceptance of such resignation, as the case may be.
- 6.1.13 Once membership has been terminated, **Members** lose all of their rights and benefits in respect of the **Company**. In the event of a person wishing to be reinstated as a **Member**, such person shall be obliged to submit a new application on the basis set out in clause 6.1.5 above.
- 6.1.14 Upon the cessation of membership of a **Member**, the **Board** shall, in its discretion, have the right to notify all persons with an interest therein, whether **Members** or not, that the membership of the **Member** in question has been terminated and the **Member** hereby consents to such notification and shall have no claim against the **Company** for any damages or loss of business that the **Member** may suffer or incur as a result of such notification.
- 6.1.15 The **Members** hereby acknowledge that the **Company** has *locus standi* and an interest in preventing a **Member** whose membership has ceased from representing that it is a **Member** of the **Company**, and the **Company** shall accordingly be entitled to an interdict against such former **Member** who persists or threatens to persist in making any such representation.
- 6.1.16 **Members** may not assign or transfer their membership to the **Company** to any person.
- 6.2 **Member's Meetings**
  - 6.2.1 If, at any time, the **Board** fails to determine a record date, as contemplated in section 59, the record date for the relevant matter is as determined in accordance with section 59(3).
  - 6.2.2 The **Company** elects to convene annual general meetings as contemplated in section 61(7).
  - 6.2.3 The right of **Members** to requisition a meeting, as set out in section 61(3), may be exercised by at least 25% (twenty five percent) of the voting **Members**, as provided for in that section.

- 6.2.4 The authority of the **Board** to determine the location of any **Members** meeting, and the authority of the **Company** to hold any such meeting in the **Republic** or in any foreign country, as set out in section 61(9) is not limited or restricted by this **Memorandum**.
- 6.2.5 The minimum number of days for the **Company** to deliver a notice of a **Members** meeting to the **Members**, as required by section 62, is 15 (fifteen) **Business Days**, as provided for in section 62(1).
- 6.2.6 The authority of the **Company** to conduct a meeting entirely by **Electronic Communication**, or to provide for participation in a meeting by **Electronic Communication**, as set out in section 63 is not limited or restricted by this **Memorandum**.
- 6.2.7 The quorum requirement for a **Members'** meeting to begin, or for a matter to be considered is at least 30% (thirty percent) of the **Members** or their duly appointed representatives present.
- 6.2.8 If within half an hour after the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of **Members**, shall be dissolved, in any other case it shall stand adjourned to a day 5 (five) **Business Days** after the date of the meeting and if at such adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the **Members** present in person or by proxy shall be a quorum.
- 6.2.9 Where a meeting has been adjourned as mentioned in clause 6.2.8 above, the **Company** shall, upon a date not later than 3 (three) **Business Days** after the adjournment, publish by way of electronic mail stating:
- 6.2.9.1 the date, time and place to which the meeting has been adjourned;
- 6.2.9.2 the matter before the hearing when it was adjourned; and
- 6.2.9.3 the ground for the adjournment;
- it being provided that if less than 1 (one) quarter of the **Members** are present or represented at a meeting called for the purpose of passing a special resolution, the meeting shall stand adjourned to a day not earlier than 5 (five) **Business Days** and not later than 15 (fifteen) **Business Days** after the date of the meeting and the provisions set out in this clause 6 shall apply in respect of such adjournment.
- 6.2.10 At any general meeting, if a poll is duly demanded it shall be taken in such manner as the chairperson of the meeting directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The chairperson of the meeting may appoint scrutineers to determine the result of the poll.

### 6.3 **Votes of Members**

All subscribing **Members** whose subscriptions are not in arrears present in person at a general meeting or in the case of companies, corporations, organisations or associations through their duly appointed representatives

are entitled to vote, and **Members** present in person or by proxy shall have one vote each irrespective if voting is by show of hands or by polling.

#### 6.4 Proxies

6.4.1 The right of a **Member** to appoint persons concurrently as proxies, as set out in section 58(3)(a) is not limited, restricted or varied by this **Memorandum**.

6.4.2 The authority of a **Member's** proxy to delegate the proxy's powers to another person, as set out in section 58(3)(b) is not limited or restricted by this **Memorandum**.

6.4.3 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**, as set out in section 58(7) is not limited or restricted by this **Memorandum**.

6.4.4 The instrument appointing a proxy shall be writing under the hand of the appointer or of his/her agent duly authorised in writing. A proxy need not be a **Member**, provided that the proxy shall be nominated by an authorised representative of a **Member**. The holder of a general special power of attorney incorporating the necessary powers contemplated hereunder, shall be entitled to attend and vote at any meeting on behalf of the **Member** granting such power.

6.4.5 The **Company** shall be obliged to give effect to the appointment of a proxy, provided the instrument appointing such proxy, including the power of attorney and/or authority, if any, under which it is signed or duly certified copy thereof, shall have been deposited at the offices of the **Company** not less than 48 hours before the time for holding such meeting or any adjournment thereof.

6.4.6 The instrument appointing a proxy shall be in such a form as may be acceptable to the chairperson of the meeting of **Members**.

#### 6.5 Resolutions

6.5.1 For an ordinary resolution to be adopted at a **Members'** meeting, it must be supported by at least 55% of the **Members** who voted on the resolution, despite section 65(7).

6.5.2 For a special resolution to be adopted at a **Members'** meeting, it must be supported by at least 75% of the **Members** who voted on the resolution, despite section 65(7).

6.5.3 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) of the Act. For avoidance of doubt, a special resolution is required to:

6.5.3.1 amend the **Memorandum**, in general or to allow for the amendment of the classes of **Members** or any rights attached to such membership;

- 6.5.3.2 ratify a consolidated revision of the **Memorandum** as contemplated in section 18(1)(b);
- 6.5.3.3 ratify actions by the **Company** or members of the **Board** in excess of their authority, as contemplated in section 20(2);
- 6.5.3.4 approve the voluntary winding up of the **Company**, as contemplated in section 80(1);
- 6.5.3.5 approve the winding up of the **Company** by the court, as contemplated in section 81(1);
- 6.5.3.6 approve an application to transfer the registration of the **Company** to a foreign jurisdiction, as contemplated in section 82(5); or
- 6.5.3.7 approve any proposed Fundamental Transaction to the extent required by Part A of Chapter 5 of the **Act**.

## 7. **DIRECTORS AND OFFICERS**

### 7.1 **Composition of the Board of Directors**

- 7.1.1 The **Board** shall at all times comprise of not less than 3 (three) **Directors**.
- 7.1.2 Notwithstanding anything to the contrary, for as long as the **Company** is a **Public Benefit Organisation**, at least 3 (three) of the **Directors** will not be connected persons.
- 7.1.3 **Directors** are to be appointed as follows:
  - 7.1.3.1 at every annual general meeting the **Members** may elect 50% (fifty percent) of the **Directors** from the individuals nominated by the **Board**;
  - 7.1.3.2 the **Board** shall appoint the other 50% (fifty percent) of the **Board** and shall be entitled to do so at any point in time;
  - 7.1.3.3 the chief executive officer of the **Company** shall be an ex officio **Director** and shall be appointed by the **Board** on such terms as and conditions as may be determined from time to time by the **Board**.
- 7.1.4 The **Board** shall at all times endeavour to comply with King III insofar as it is practical to do so.
- 7.1.5 Subject to the provisions of sub-clause 7.1, the **Directors** shall from amongst their number elect one or more office bearers as deemed necessary including, but not limited to, a chairperson, a deputy chairperson and a chief executive officer.
- 7.1.6 To become or remain a **Director** or a prescribed officer of the **Company**, a person needs to satisfy the qualifications and eligibility requirements set out in section 69 of the **Act**. For avoidance of doubt, the following persons will be ineligible or disqualified from serving as **Directors**:

- 7.1.6.1 a **Juristic Person**;
  - 7.1.6.2 an unemancipated minor;
  - 7.1.6.3 a person prohibited by a court from serving as such, or having been declared to be delinquent in terms of the **Act**;
  - 7.1.6.4 an unrehabilitated insolvent;
  - 7.1.6.5 a person prohibited by public regulation from being a **Director**;
  - 7.1.6.6 a person removed from an office of trust, on the grounds of misconduct involving dishonesty;
  - 7.1.6.7 a person convicted of a crime and imprisoned without the option of a fine or fined more than the prescribed amount, for any offence involving theft, fraud, dishonesty, forgery, perjury, or in connection with the formation and management of a company, or in terms of the Insolvency Act, 1936, the Close Corporations Act, 1984, the Competition Act, the Financial Intelligence Centre Act, 2001, the Security Services Act, 2004 or the Prevention and Combating of Corruption Activities Act, 2004.
  - 7.1.7 Apart from satisfying the qualification and eligibility requirements set out in section 69, to become or remain a **Director** of the **Company**, a person need to be an employee or a director of a **Member**.
  - 7.1.8 The **Directors**, excluding the chief executive officer, shall retire from office at every annual general meeting and the newly elected **Directors** shall assume their office as such.
  - 7.1.9 Retiring **Directors** shall be eligible for re-election.
  - 7.1.10 Despite 7.1.8 above, if any **Director**:
  - 7.1.11 becomes prohibited from being a **Director** by virtue of any provision of the **Act**; or
  - 7.1.12 resigns his office by notice in writing to the **Company**;
  - 7.1.13 is removed from office in accordance with the provisions of the **Act** or this **Memorandum**;
  - 7.1.14 is removed from office by ordinary resolution of the **Members** of which special notice is given in terms of the **Act**;
  - 7.1.15 is directly or indirectly interested in any contract or proposed contract in the **Company** and fails to declare his interest and the nature thereof in the manner required; or
  - 7.1.16 if he/she is removed in terms of a **Board** resolution as provided for in section 71(3) of the **Act**;
- then such **Director** shall vacate his office of **Director**.

## 7.2 Directors Remuneration and Reimbursement

7.2.1 The **Directors** shall be entitled to reimbursement of all authorised and approved travelling, subsistence and other expenses properly incurred by them in the execution of their duties in or about the business of the **Company**.

7.2.2 The **Directors** shall:

7.2.2.1 appoint or authorise the appointment of standing and ad hoc committees and decide the scope of their function or operation;

7.2.2.2 regulate all matters relating to the formation of Area or District Committees and the activities or operation of such committees or of any class or group of **Members**;

7.2.2.3 not be entitled to undertake on behalf of the **Company** any works of a capital nature, without the sanction of a resolution of the **Company** in general meeting.

## 7.3 Borrowing Powers

Subject to the provisions of the **Act**, the **Directors** shall not be entitled to borrow money and to mortgage or bind the undertaking and property of the **Company** or any part thereof, and to issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the **Company** or of any third party, unless approved by a resolution of the **Board**.

## 7.4 Authority of the Board

Subject to the provisions of clause 7.4 above, the authority of the **Board** to manage and direct the business and affairs of the **Company**, as set out in section 66(1) of the **Act**, is not limited or restricted by this **Memorandum**.

## 7.5 Board meetings

7.5.1 The authority of the **Board** to consider a matter other than at a meeting, as set out in section 74 of the **Act**, is not limited or restricted by this **Memorandum** on condition that the resolution is signed and approved by a majority of the **Directors** in office from time to time.

7.5.2 The chairperson of the **Board** or any 2 (two) **Directors** have the authority to requisition a meeting of the **Board**, despite the provisions of section 73(1) of the **Act**.

7.5.3 The authority of the **Board** to conduct a meeting entirely by **Electronic Communication**, or to provide for participation in a meeting by **Electronic Communication**, as set out in section 73(3) of the **Act**, is not limited or restricted by this **Memorandum**.

- 7.5.4 The authority of the **Board** to determine the manner and form of providing notice of its meetings, as set out in section 73(4) of the **Act**, is not limited or restricted by this **Memorandum**.
- 7.5.5 The authority of the **Board** to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) of the **Act**, is not limited or restricted by this **Memorandum**.
- 7.5.6 The quorum requirements for a **Board** meeting to begin is a majority of the **Directors** present at the meeting.
- 7.5.7 Each **Director** has 1 (one) vote on a matter before the **Board**.
- 7.5.8 A majority of the votes cast on a resolution is sufficient to approve that resolution.
- 7.6 **Minutes and Minute Book**
- 7.6.1 The **Directors** shall, in accordance with the provisions of the **Act**, cause minutes to be kept:
- 7.6.2 of all appointments of officers;
- 7.6.3 of names of **Directors** present at every meeting of the **Company**, and of the **Directors**;
- 7.6.4 of all proceedings at all meetings of the **Board** and of the **Members** of the **Company**.
- 7.6.5 Such minutes shall be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.
- 7.7 **Indemnification of Directors**
- 7.7.1 The authority of the **Board** to advance expenses to a **Director**, or indemnify a **Director** in respect of legal proceedings, as set out in section 78(3) of the **Act**, is not limited or restricted by this **Memorandum**.
- 7.7.2 The authority of the **Board** to indemnify a **Director** in respect of liability, as set out in section 78(5) of the **Act**, is not limited or restricted by this **Memorandum**.
- 7.7.3 The authority of the **Board** to purchase insurance to protect the **Company**, or a **Director**, as set out in section 78(6) of the **Act**, is not limited or restricted by this **Memorandum**.
- 7.8 **Officers and Committees**
- 7.8.1 The **Board** may appoint any officers it considers necessary to better achieve the objects of the **Company**.



- 7.8.2 The authority of the **Board** to appoint committees of **Directors**, and to delegate to any such committee any of the authority of the **Board** as set out in section 72(1) of the **Act**, or to include in any such committee persons who are not **Directors**, as set out in section 73(2)(a) of the **Act**, is not limited or restricted by this **Memorandum**.
- 7.8.3 The authority of a committee appointed by the **Board**, as set out in section 72(2)(b) and (c) of the **Act**, is not limited or restricted by this **Memorandum**.

## 8. PUBLIC BENEFIT ORGANISATION

- 8.1 The **Board** shall, if and when deemed appropriate, submit an application to the South African Receiver of Revenue to be registered as a **Public Benefit Organisation** as provided for in terms of section 30 of the **Income Tax Act**.
- 8.2 In order for the **Company** to comply with the requirements relevant to a **Public Benefit Organisation** and for the period while it is so registered, it is expressly agreed that:
- 8.2.1 the sole object of the **Company** as described in this **Memorandum** shall at all times be to carry on one or more **Public Benefit Activity** as defined in section 30(1) of the **Income Tax Act**;
- 8.2.2 the **Company** is prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof;
- 8.2.3 no activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of the **Company** otherwise than by way of reasonable remuneration;
- 8.2.4 substantially the whole of the activities of the **Company** will be carried out to the furtherance of the **Company's** sole principal object and not for the specific benefit of an individual member or minority group;
- 8.2.5 at least 3 (three) **Directors** will not be connected persons in relation to each other and no single **Director** shall directly or indirectly control the decision making powers relating to the **Company**, unless he/she is the sole **Director** at that point in time;
- 8.2.6 the funds of the **Company** will be used solely for the objects for which it was established;
- 8.2.7 the **Company** will not carry on any business undertaking or trading activity unless specifically permitted in terms of section 30(3)(b)(iv) of the **Income Tax Act**;
- 8.2.8 no remuneration will be paid to any employees, office bearer or other person which in the opinion of the **Board** is excessive, having regard to what is reasonable in the sector in relation to the service rendered;

- 8.2.9 the **Company** will not economically benefit any person in a manner that is inconsistent with its objects as described in this **Memorandum**; and
- 8.2.10 to the extent that the **Income Tax Act** is amended so as to delete, change or add to any of the above requirements, then this clause 9 shall be deemed to be altered to reflect such deletion, change or addition.

## 9. **PROHIBITION ON DISTRIBUTION OF INCOME AND PROPERTY**

The income and property of the **Company**, howsoever derived, shall be applied solely towards the promotion of its objects, provided that nothing herein contained shall prevent the payments as contemplated in Item 1(3) of Schedule 1 of the **Act**.

## 10. **DISSOLUTION OR WINDING-UP**

- 10.1 If upon the winding up, deregistration or dissolution of the **Company**, there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, such property shall not be paid to or distributed among the **Directors** or other **Members** of the **Company** or component bodies nominating **Directors** to the **Board**, but shall be given and transferred to some other entity which has been approved as a **Public Benefit Organisation** in terms of section 30 of the **Income Tax Act**, to be determined by the **Board** at or before the time of deregistration or dissolution.
- 10.2 In the absence of a determination by the **Board** as contemplated in clause 11.1 above, such determination shall be made by the court as contemplated in Item 1(4)(b)(ii)(cc) of Schedule 1 of the **Act**.
- 10.3 For the purpose of carrying to its final termination the dissolution process of the **Company**, and notwithstanding anything to the contrary in this **Memorandum**, the persons then constituting the **Board** shall remain in office until the earlier of such final termination, on the one hand, or on the other their deaths or other disqualification in terms of this **Memorandum**. If vacancies occur, resulting in there being fewer **Directors** than are needed to establish a quorum, then the remaining **Directors** will form a quorum.

## 11. **DISPUTE RESOLUTION**

- 11.1 If any dispute arises out of or in connection with this **Memorandum**, or related thereto, whether directly or indirectly, including the enforcement of the provisions hereof, the **Board** may, in its sole discretion, refer such dispute for resolution by way of arbitration.
- 11.2 A dispute within the meaning of this clause exists once the **Board** notifies the relevant parties in writing of the nature of the dispute and requires the resolution of the dispute in terms of this clause.

- 11.3 Within 10 (ten) **Business Days** following such notification, the matter will be referred to arbitration as envisaged in the clauses below.
- 11.4 The arbitration will be held as an expedited arbitration in accordance with the then current rules for expedited arbitration of the Arbitration Company of Southern Africa (“AFSA”) by 1 (one) arbitrator appointed by agreement between the **Board** and the relevant disputing party/ies. If the parties cannot agree on the arbitrator within 10 (ten) **Business Days** after the referral of the dispute to arbitration, the arbitrator shall be appointed by the Secretariat of AFSA.
- 11.5 The decision of the arbitrator shall be final and binding on all parties and there shall be no further right of appeal.
- 11.6 The provisions of this clause shall not preclude any party from access to an appropriate court of law for interim relief in respect of urgent matters pending finalisation of this dispute resolution process.
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