

*Companies and Intellectual Property Commission
Republic of South Africa*

MEMORANDUM OF INCORPORATION

of

**FEDERATION OF FUNERAL PROFESSIONALS IN SOUTHERN AFRICA NPC
REGISTRATION NUMBER: 2017/360713/08**

*A Non Profit Company with members in compliance with the
Companies Act 71 of 2008, as amended.*

ADOPTION OF MEMORANDUM OF INCORPORATION

This Memorandum of Incorporation was adopted by the incorporators and first members of the Company, in accordance with section 13 (1), on 25 October 2017, in Bloemfontein.

1. DEFINITIONS AND INTERPRETATION

In this Memorandum of Incorporation the following words shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meaning:

- 1.1 **Annual General Meeting** means a meeting to be initially held, no more than 18 months after the Company's date of incorporation, and thereafter once every calendar year, but no more than 15 months after the date of the previous annual general meeting;
- 1.2 **Board** means the Board of Directors of the Company from time to time, initially comprising the Incorporators of the Company until amended and/or substituted in accordance with the provisions of this Mol.
- 1.3 **Business Day** means any day other than a Saturday, Sunday or gazetted national public holiday in the Republic of South Africa;
- 1.4 **Day** means, other than a **Business Day**, an ordinary calendar day.
- 1.5 **Chairperson** means the Chairperson of the Board of the Company;
- 1.6 **CIPC** means the Companies and Intellectual Property Commission established in terms of section 185 of the Companies Act;
- 1.7 **Companies Act** means the Companies Act 71 of 2008, as amended from time to time;
- 1.8 **Companies Regulations** means the Companies Regulations of 2011 promulgated by the Minister in terms of section 223 of the Companies Act, as amended from time to time;
- 1.9 **Company** means Federation of Funeral Professionals in Southern Africa NPC, registration number 2014/360713/08, a non-profit company with members incorporated in accordance with the laws of the Republic of South Africa;
- 1.10 **Director** means a Director of the Company;
- 1.11 **Effective Date** means the date on which this Mol is filed with the Commission;
- 1.12 **Income Tax Act** means the Income Tax Act No. 58 of 1962, as amended from time to time;
- 1.13 **Member** means a member of the Company as more fully described in clause 6 below;
- 1.14 **Membership Regulations** means the Membership Regulations of the Company as determined by the Board, from time to time.

- 1.15 **Mol** means this Memorandum of Incorporation of the Company, which shall become binding on the company with effect from the date upon which the Mol is filed with the Commission and “Memorandum” has a similar meaning;
- 1.16 **Ordinary Resolution** means a resolution adopted with the support of more than 50% of the voting rights exercised on the resolution;
- 1.17 **Rules (and Regulations)** means the rules of the Company as defined in the Companies Act and/or rules and regulations published by the Board from time to time, as the case may be;
- 1.18 **SARS Commissioner** means the Commissioner of the South African Revenue Services; and
- 1.19 **Special Resolution** means a resolution adopted with the support of at least 75% of the voting rights exercised on the resolution.
- 1.20 **In this Memorandum:**
- 1.20.1 any reference to a **“person”** includes any natural, juristic or quasi-juristic person, including without limitation any sole proprietorship, firm, partnership, trust, close corporation, company, undertaking, joint venture, authority or other incorporated or unincorporated entity or association;
- 1.20.2 any reference to **“section”** shall denote a reference to a section of the Act or another relevant Act, as is evident from the context and any reference to **“clause”** shall refer to a clause in this Mol.
- 1.20.3 words importing the masculine gender include the feminine and neuter genders and *vice versa*; the singular includes the plural and *vice versa*; and natural persons include juristic persons, other corporate entities, unincorporated associations of persons and state entities, and *vice versa*;
- 1.20.4 any reference to an enactment includes any subordinate legislation made from time to time under that enactment, as may be amended from time to time;
- 1.20.5 words and expressions which are defined and used or have a particular meaning ascribed to them in a particular context in the Companies Act shall when used in this Mol in a similar context bear the same meaning unless excluded by the subject or the context, or unless this Mol provides otherwise;
- 1.20.6 the provisions of this Mol shall be interpreted in the same way as the provisions of the Companies Act (which forms part of the constitution of the Company in terms of section 19(1)(c)) are interpreted;

- 1.20.7 each provision and each sentence and each part of a sentence in this Mol is separate and severable from each other, and to the extent any provision or sentence or part thereof is found to be illegal or unenforceable or inconsistent with or contravenes any provision of the Companies Act, or void, such may to that extent only be modified or severed from the Mol, so that the remaining part of that provision or sentence or part thereof, as the case may be, is legal, enforceable or consistent with or does not contravene the Companies Act or is not void; and
- 1.20.8 the long standard form of memorandum of incorporation for a Non-Profit Company with members contained in the regulations published in terms of the Companies Act, as amended from time to time, shall not apply to the Company save for the extent to which it is incorporated in this Mol.

2. INCORPORATION AND NATURE OF THE COMPANY

- 2.1 The Company is incorporated as a Non Profit Company, as defined in the Companies Act.
- 2.2 The Company is incorporated in accordance with, and governed by–
- 2.2.1 the unalterable provisions of the Companies Act that are applicable to non profit companies;
- 2.2.2 the alterable provisions of the Companies 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 Mol.

3. OBJECTS AND POWERS OF THE COMPANY

- 3.1 The main objectives of the Company are as follows:
- 3.1.1 Improving the quality and accessibility of professional funeral services for all in South Africa and acting as advocate and promotor for professional funeral services.
- 3.1.2 Providing a framework within which members can achieve qualifications and maintain competence to create greater value for their clients.
- 3.1.3 Ensuring that members maintain the highest ethical standards in the pursuance of their profession, through the enforcement of the FFPSA Code of Ethics and Professional Conduct Standards and the FFPSA Disciplinary Regulations as a mechanism of self-regulation.

- 3.1.4 Providing a leadership role within the funeral services profession by providing balanced, credible input and commentary to Government and the public.
 - 3.1.5 Facilitating dialog, discussion and consultation with key Government organisations/departments and public and private institutions in view of promoting and advancing professional funeral services, Members' interests and public benefit.
 - 3.1.6 Facilitating transformation within the profession through the FFPSA's Transformation Policy, as determined from time to time.
 - 3.1.7 Providing a networking and information dissemination platform for members in the promotion and advancement of the funeral services profession.
- 3.2 Except to the extent necessarily implied by the stated objectives of the Company, the purpose and powers of the Company are not subject to any restriction, limitation or qualification, as contemplated in section 19 (1)(b)(ii). In this regard, and for the advancement of the abovementioned objective the Board of Directors may exercise *inter alia* the following powers, namely:
- 3.2.1 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;
 - 3.2.2 prescribe regulations or rules, governing aspects of membership, professional conduct, discipline, continuing professional development and the like for the Company's Members, and any other rules / regulations as may prescribed by the Board from time to time;
 - 3.2.3 to participate, financially or otherwise, directly or indirectly, in the printing and publishing of journals, newsletters, books, pamphlets, informative literature or any other kind of publication and to take ancillary actions as may be required to enhance the success of the publications generally;
 - 3.2.4 to arrange and finance or to assist in arranging or financing, or to establish a legal entity to arrange and/or finance congresses, meetings, seminars, symposia and the like.
 - 3.2.5 to provide or facilitate the provision of continuing education courses to Members at centres approved by the Board, and to approve programs and courses to be dealt with at same and to appoint delegates, speakers and lecturers to attend such congresses, seminars, meetings, symposia and/or training courses;

- 3.2.6 to assist with the drafting and to approve syllabi and curricula for educational and continuing professional development courses for the Company and its Members;
- 3.2.7 to consult and liaise with Government Departments, Regulators, Councils or other interested organisations or persons in matters relating to legislation, regulation, directives, rules and interests of the Company, its Members and the funeral services profession;
- 3.2.8 to accept donations, grants and other monies subject to clause 10.6 below;
- 3.2.9 to borrow, raise or secure, up to a maximum accumulated amount of R2.5 million at any time, such 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 upon all or any of the property of the Company. Borrowing, rising or securing funds in excess of the R2.5 million threshold shall be subject to an ordinary resolution of the members of the FFPSA;
- 3.2.10 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;
- 3.2.11 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;
- 3.2.12 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;
- 3.2.13 to open and operate banking accounts and saving accounts with registered banking institutions;
- 3.2.14 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 herein, 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, employees or related persons of the Company, provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any member, director, alternate director, officers, prescribed officers, employee or related party of the Company in return for authorised services actually rendered to or on behalf of the Company;

- 3.2.16 to levy fees or subscriptions, and/or financial penalties, and/or interest on its Members;
- 3.2.17 to appoint officials and/or employees, including 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;
- 3.2.18 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;
- 3.2.19 to interpret any section of this Mol and rules or regulations made in terms hereof 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;
- 3.2.20 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 Mol.
- 3.2.21 to appoint Board Sub-Committees and other special Committees, provided that the Members of any such Committees shall be elected by the Board of Directors; 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;
- 3.2.22 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 Mol or other rule or regulation governing such actions;
- 3.2.23 to make, vary and repeal rules or regulations necessary to regulate the business of the Company and matters relating to its Board Sub-Committees, officers and servants, and to enforce such rules or regulations, provided that such rules or regulations shall not be in conflict with this Mol, the objectives and the powers of the Company or the Act;
- 3.2.24 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;
- 3.2.25 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;

3.2.26 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 and King IV or imposed upon it in terms of this Mol.

3.3 Upon dissolution of the Company, its net assets must be distributed in the manner determined in accordance with section 1(4)(b) of Schedule 1 of the Act.

4. MEMORANDUM OF INCORPORATION AND COMPANY RULES

4.1 Amendment of Memorandum of Incorporation

4.1.1 This Mol of the Company may be altered or amended only in the manner set out in section 16, 17 or 152 (6) (b), being:

- (a) in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document, by publishing a notice of the alteration, in any manner required or permitted by this Mol and filing a notice of the alteration, or
- (b) in compliance with a court order, effected by a resolution of the Board; or
- (c) at any other time if a Special Resolution to amend the Mol is proposed and adopted by the Members.

4.1.2 Any amendment of the Memorandum, save for an amendment contemplated in clause 4.1.1(a) and (b), may only be effected by a Special Resolution of the Members.

4.1.3 The Company must publish a notice of any alteration of the Mol by delivering a copy of those amendments to each Director and Member by electronic mail, or in the absence of electronic mail, by ordinary mail.

4.1.4 A copy of all amendments to this Mol must be submitted to the SARS Commissioner and CIPC within 30 days of its amendment, or sooner if otherwise required.

4.2 Rules and Regulations of the Company

4.2.1 The authority of the Company's Board to make rules / regulations for the Company, as contemplated in section 15 (3) to (5) is not limited or restricted in any manner by this Mol save to the extent that:

- (a) Rules or regulations published by the Board must be consistent with the Companies Act and this Mol, and any such rule or regulation

that is inconsistent with the Companies Act or this Mol is void to the extent of the inconsistency; and

(b) such rule(s) or regulation(s) takes effect on a date specified therein.

4.2.2 The Board must publish any rules or regulations (or any amendment to such rules or regulations) made by delivering a copy of such rules or regulations to each Director and Member by electronic mail or by another mode of publication determined to be reasonable publication by the Board.

5. OPTIONAL PROVISIONS OF COMPANIES ACT

5.1 The Company does not elect, in terms of section 34 (2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act, save to the extent such provisions are incorporated in this Mol.

5.2 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 of places as the Board deem fit, and shall always be open to the inspection of the Directors.

5.1.4 The Directors 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 or any of them 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 statute or

authorised by the Board or by the Company at a general meeting, or as contemplated in the Companies Act.

5.1.5 The Board shall in respect of every financial year of the Company cause to be made audited 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 audited Annual Financial Statements which are to be laid before the Company at its Annual General Meeting, shall not less than 15 (fifteen) business days before the date of the meeting be published 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 to all members able to receive such a copy in such format.

6. MEMBERS AND MEMBERSHIP

6.1 The terms and conditions of membership is determined by the Company from time to time as provided for the Membership Regulations. The Company has members, who are in two classes, being voting and non--voting members as provided for below.

6.2 Members

6.2.1 As contemplated in section 4(1) and 4(2)(d) of Schedule 1 of the Companies Act, the Company shall have two classes of Members, being Full Members, each of whom has an equal vote in any matter to be decided by the Members of the Company, and Associate Members, who shall have no vote in any matter to be decided by the Members of the Company.

6.2.2 All Members of the Company shall be such natural persons as from time to time are admitted to membership, as provided for in this Mol and the Membership Regulations, as determined from time to time.

6.2.3 All membership to the Company shall be personal and may not be assigned or transferred.

6.2.4 Full Members shall be those Members in good standing carrying the professional designation of the FFPSA, subject to the provisions of the Membership Regulations, as determined from time to time.

6.2.5 Associate Members shall be all other members of the FFPSA in good standing, other than Full Members, subject to the provisions of the Membership Regulations, as determined from time to time.

6.3 The Board shall determine application and award procedures for membership from time to time.

6.4 Voting Rights

6.4.1 A Full Member shall be entitled to one vote on a show of hands or a poll / ballot on any matter to be decided at any general meeting of the Company.

6.4.2 A Full Member shall not have a vote if they are not in good standing.

6.4.3 The Chairperson of the Board shall make a final determination as to which Full Member is entitled to cast a vote at a Members' meeting should a dispute arise between or concerning Members.

6.5 Rights of Members

6.5.1 Members' right to information:

In addition to the rights to access information set out in section 26 (1) of the Act, all Members of the Company shall have a right to information as set out this Mol or as determined by the Promotion of Access to Information Act 2 of 2000, as amended.

6.5.2 Representation by Proxy:

6.5.2.1 A Full Member entitled to attend and vote at a meeting of Members shall be entitled to appoint a proxy to attend, speak and vote on behalf of the Full Member.

6.5.2.2 The right of a Full Member in good standing to appoint persons concurrently as proxies, as set out in section 58 (3)(a) of the Act is limited to the proxy holder also being a Full Member in good standing of the Company and only one proxy attending and voting on behalf of the Full Member at the relevant meeting.

6.5.2.3 The instrument appointing a proxy shall be delivered to the FFPSA in the format and within the prescribed timelines as determined by the Board from time to time. If the Full Member is in default of complying with the prescribed format and/or timelines, as set out above, the instrument of proxy shall be deemed invalid and shall be disregarded.

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

6.5.2.5 The authority of a Full Member's proxy to decide without direction from the Full Member whether to exercise, or abstain

from exercising any voting right of the Full Member, is not limited or restricted by this Mol, save to the extent to which the proxy instrument provides otherwise.

6.5.3 Record Date for exercise of Member's Rights:

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

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

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

7. DIRECTORS

7.1 Authority of the Board of Directors and special provisions immediately following incorporation of the Company:

7.1.1 The Board of Directors is authorised to manage and direct the business and affairs of the Company as set out in this Mol and the Act.

7.1.2 So soon after incorporation of the Company as is practically possible, the incorporators (first Directors) shall call a meeting for:

7.1.2.1 the election of Directors, in addition to the Incorporators (first Directors);

7.1.2.2 finalising the rules and regulations pertaining to the initial governance, membership and general management of the Company; and

7.1.2.3 matters incidental to the incorporation and first business of the Company.

7.1.3 The special meeting provided for in 7.1.2 above, shall be conducted subject to the following provisions:

7.1.3.1 The meeting shall comprise:

(a) the Incorporators (first Directors) of the Company who shall each have one vote on any matter to be decided at the meeting; and

(b) two representatives (other than the Incorporators/first Directors) of each of the executive committees (or similar executive or senior forum) of the NFDA, SAFPA and IFPA who shall each have one vote on any matter to be decided at the meeting.

- 7.1.3.2 In addition to the persons noted in 7.1.3(a) and (b) above, other stakeholders who, in the discretion of the Incorporators (first Directors), have or may hold an interest in the meeting, may attend the meeting but shall not have any voting rights at the meeting.
 - 7.1.3.3 The date, time, venue and notice format of the meeting shall be determined by the Incorporators (first Directors) subject thereto that such notice, time and venue is reasonable and accessibly to the persons noted in 7.1.3(a) and (b) above.
 - 7.1.3.4 The quorum for the meeting shall comprise all the persons noted in 7.1.3(a) and (b) above.
 - 7.1.3.5 Other than provided for in this clause 7.1.3 the Incorporators (first Directors) shall regulate and the meeting as they deem fit.
 - 7.1.3.6 Incorporators (first Directors) shall elected a Chairperson for the meeting from amongst their ranks. The Chairperson shall not have a casting vote in any matter to be decided at the meeting.
 - 7.1.3.7 The meeting shall elect a maximum of 6 (six) Directors who would, given reasonable opportunity, comply with the Full Member membership requirements of the Company (to be determined) or who are otherwise suitably skilled, qualified and experience to hold the office of Director.
 - 7.1.3.8 The nomination and election of a particular person as Director shall each be done upon written nomination from at least two of the three Incorporators (first Directors) and he/she shall be elected at the meeting upon ordinary resolution (simple majority) of the persons (as set out in clause 7.1.3.1) in attendance at the meeting.
 - 7.1.3.9 Any Director elected in terms this clause 7.1.3.8 shall hold office only until the first Annual General Meeting of the Company, but shall be eligible for re-election subject to the overall provisions of this Mol.
 - 7.1.3.10 The meeting shall further consider, and if deemed appropriate, adopt rules and regulations for the Company and its Members pertaining to, *inter alia*, the initial governance of the Company, initial membership to the Company and general business and management of the Company following its incorporation.
- 7.1.4 The provisions of clause 7.1.2 and 7.1.3 are included in this Mol for expediency and practically in order to effectively commence Company

business immediately following incorporation. Other than specifically provided for herein, all matters pertaining to the governance, management and membership of the Company shall be dealt with in accordance with the remaining provision of this Mol at all other times.

7.2 Composition and Election of the Board of Directors:

- 7.2.1 The Board of Directors of the Company shall comprise a maximum of 9 (nine) Directors but no less than 3 (three) Directors, each of whom shall be elected in the manner set out in this Mol, and who shall serve for a term as set out in this Mol.
- 7.2.2 There are no appointed or *ex officio* Directors of the Company other than provided for in this Mol.
- 7.2.3 In addition to satisfying the qualification and eligibility requirements set out in section 69 of the Act, to become or remain a Director of the Company, a person must satisfy the additional requirements and qualifications set out in this Mol.
- 7.2.4 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.
- 7.2.5 The Board of Directors shall comprise of suitably qualified, skilled and experienced persons of whom the majority shall be Full Members of the FFPSA.
- 7.2.6 Directors shall be nominated ahead of an Annual General Meeting in accordance with the provision of this Mol and the Company's Board Charter, and shall be elected at an Annual General Meeting upon ordinary resolution.
- 7.2.7 The Board may call Invitees to the Board, however, any such Invitees shall not be entitled to vote on any matter that is placed before the Board of Directors.
- 7.2.8 At each Annual General Meeting, one third of the non-executive Directors of the Board shall retire from office;
 - 7.2.8.1 The non-executive Directors to retire shall be those longest in office;
 - 7.2.8.2 Any non-executive Director who has held office for a period of three years since his/her appointment or his/her last election shall retire at such Annual General Meeting, either as part of the one third of Directors retiring by rotation or in addition thereto;

- 7.2.8.3 Non-executive Directors retiring as above shall be eligible for re-election at such meeting but may be appointed for no more than 3 (three) consecutive terms of 3 (three) years each.
- 7.2.9 At its first meeting or whenever thereafter necessary, the newly elected Board of Directors shall elect from amongst its members a Chairperson and Deputy Chairperson in accordance with the provisions of clause 7.5 below.
- 7.2.10 The Members of the Board shall be non-executive Directors, unless it becomes necessary in the sole discretion of the Board, to appoint a person as executive Director.
- 7.2.10.1 The CEO (if any) shall be an executive Director and shall be entitled to vote on any matter that is placed before the Board of Directors.
- 7.2.11 Any Member of either the Board of Directors or Board Sub-Committees shall cease to hold office if he/she:
- 7.2.11.1 resigns in writing his/her office;
- 7.2.11.2 If he/she becomes 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;
- 7.2.11.3 If he/she becomes unsound of mind;
- 7.2.11.4 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;
- 7.2.11.5 If he/she ceases to be a Member of the Company;
- 7.2.11.6 If he/she is absent without consent, or if his/her apology is not accepted, for two consecutive meetings of the Board of Directors or Board Sub-Committee (as the case may be);
- 7.2.11.7 If he/she is found guilty of unprofessional conduct, fraud or dishonesty in any forum;
- 7.2.11.8 If he/she is elected as a Director or serves on any committee of another professional body, without the written consent of the Board of Directors;

7.2.11.9 If in terms of the Act or in terms of common law, he/she becomes unfit or disqualified to serve as a Director;

7.2.11.10 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 Vacancies on the Board

The Board of Directors is authorised to fill any vacancy on the Board provided the Members are notified of such appointment and such appointment terminated at the next Annual General Meeting. Such appointee may be eligible for re-election subject to the provisions of this clause 7.

7.4 Removal of a Director

7.4.1 Having applied the rules of natural justice, the Board of Directors, may, subject to sections 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 clause 7.2.11 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 Sub-Committee.

7.5 Election of Chairperson and Deputy Chairperson

7.5.1 At its 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 and a Deputy Chairperson of the Board of Directors, to act for a period consistent with their current term as Director, provided that any candidate for Chairperson / Deputy Chairperson shall be suitable qualified, experienced and skilled for the seat of Chairperson / Deputy Chairperson.

7.5.2 No candidate may be nominated without his/her consent.

7.5.3 The candidate receiving, by simple majority, the higher number of votes, shall be declared Chairperson, and the second highest amount, Deputy Chairperson, and all Members of the Company shall be informed accordingly as soon afterwards as is practical. If there are more than two candidates for either position 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 rounds of voting shall be held with the remaining candidates until a candidate receives a simple majority of votes.

7.5.4 In the event of the death, resignation or removal from office of the Chairperson, the Deputy Chairperson shall assume the office of the Chairperson for the remaining period of such office, failing him/her, the Board shall immediately vote to have a new Chairperson appointed for the remainder of the term.

7.5 Board of Directors meetings

7.6.1 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.

7.6.2 The Board of Directors shall convene as frequently as it decides, but at least 4 (four) times each year. A special meeting of the Board of Directors may be called either:

7.6.2.1 By resolution of the Board; or

7.6.2.2 By the Chairperson whenever he/she deems it expedient to do so; or

7.6.2.3 By at least 25% (twenty five per cent) of the voting members of the Board.

7.6.3 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.

7.6.4 The Chairperson or his/her deputy 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 or his/her deputy, with the written support of 4 (four) other Directors, only 7 (seven) days' notice shall be given, unless the majority of Directors, waive such notice in writing.

7.6.5 The Board of Directors may proceed with a meeting despite a failure or defect in giving notice of the meeting, as set in clause 7.6.1 above.

7.6.6 In the event of neither the Chairperson nor the Deputy Chairperson being present, an acting Chairperson shall be elected from the Directors

present under the interim chairpersonship of the longest serving Director present, to preside at the meeting.

- 7.6.7 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.
- 7.6.8 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 poll/ballot.
- 7.6.9 The Board of Directors may regulate and adjourn its meeting as it thinks fit.
- 7.6.10 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.
- 7.6.11 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.
- 7.6.12 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) days after the date of the meeting and with written notice to all Directors.
- 7.6.13 The Directors present at such an adjourned meeting shall be a quorum, irrespective of the number of Directors present.
- 7.6.14 The votes at a Board Meeting shall be weighted as 1 (one) vote for each Director, subject to a casting vote as provided for in clause 7.6.7 above.
- 7.6.15 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 upon 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 electronic mail and purporting to emanate from the person whose signature to such resolution is required.

7.7 Financial assistance to Directors or prescribed officers

The Company is not authorised to provide financial assistance to a Director or prescribed officer other than in the normal course of employment.

7.8 Declaration of Interest

- 7.8.1 Subject to the provisions of section 75 of the Act and the Company's Declaration of Interest Policy, a Director shall not vote in respect of any contract, transaction or business with the Company in which he/she may hold an interested in, or any matter arising there from.
- 7.8.2 If a Director has a personal or 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:
- 7.8.2.1 must disclose the interest and its general nature before the matter is considered at the meeting;
 - 7.8.2.2 must disclose to the meeting any material information relating to the matter, and known to the Director;
 - 7.8.2.3 may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors;
 - 7.8.2.4 if present at the meeting, must leave the meeting immediately after making any disclosure contemplated in above;
 - 7.8.2.5 must not take part in the consideration of the matter, except to the extent contemplated above
 - 7.8.2.6 while absent from the meeting in terms of this subsection:
 - 7.8.2.6.1 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
 - 7.8.2.6.2 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;
 - 7.8.2.7 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.
- 7.8.3 Directors are required to declare personal interests at every Board meeting to the Chairperson of the Board.

8. MEMBERS MEETINGS

8.1 Annual General Meeting

- 8.1.1 The Annual General Meeting (“the AGM”) of the Company shall be held, subject to clause 1.1 above, 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 last financial year-end. A notice of the meeting together with an agenda shall be forwarded no less than 15 (fifteen) business days in advance to each Member in accordance with the provisions of clause 8.4 hereof.
- 8.1.2 The AGM may, but need not, 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 audited Annual Financial Statements;
 - 8.1.3.2 The consideration and approval of the Report of the Board of Directors;
 - 8.1.3.3 Appointment of the auditor for the ensuing financial year
 - 8.1.3.5 The consideration of any and all other matter 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 Full Member may move resolutions, provided preceding notice of such resolution, in writing and signed by himself/herself and 9 (nine) other Full Members, has been received by the CEO or Chairperson, at least 21 (twenty one) days prior to such members’ meeting, at the registered office of the Company. Upon receipt of such notice, the CEO or Chairperson 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 Full Members voting thereon.

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 20 (twenty) Full Members who are present in person or who are represented by a proxy, or 25% of the voting membership of the Company, whichever is the lessor number, shall form a quorum.

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 20 (twenty) Members of the Company setting forth the terms of the motion/resolution 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 (fifteen) business days prior to such meeting.

8.2.3 The provisions of clause 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 Deputy 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 voting Members unless the Chairperson or any 5 (five) Members present demand a poll/ballot.
- 8.3.3 If a poll/ballot is duly demanded it shall be taken in such a manner as the Chairperson directs, and the result of the poll/ballot shall be deemed to be the resolution of the meeting at which the poll/ballot was demanded.
- 8.3.4 A poll/ballot demanded on the election of a Chairperson or on a question of adjournment, shall be taken forthwith. A poll/ballot demanded on any other question shall be taken at such time as the Chairperson of the meeting directs. The demand for a poll/ballot shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll/ballot 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 and/or regulation to the contrary, every voting Member (Full Member) shall have 1 (one) vote subject to the conditions contemplated in section 6 and 7 of this MoI.
- 8.3.7 No Full Member shall under any circumstances be entitled to be present or vote (either by proxy or in his/her personal capacity) at any meeting of the Company unless such a Full Member has duly and timeously complied with all prescribed membership requirements of the Company.
- 8.3.8 Votes may be cast either personally or by written proxy.
- 8.3.9 No business shall be transacted at any meeting unless a quorum of voting Members is present at the time when the meeting precedes to business.
- 8.3.10 The maximum period allowable for an adjournment of a members meeting is as set out in section 64(12) and 64(13) of the Act without variation.

8.4 Notices of General Meetings

- 8.4.1 The notice of a general meeting shall, as a minimum, conform to the requirements of the Act.
- 8.4.2 Any notice or meeting document shall be sent by electronic mail to the e-mail address of the Member appearing on the records of the Company. Members are required to ensure that the advice the Company of their e-mail address and any change thereof.
- 8.4.3 The Company shall further publish the relevant notice in either:

8.4.3.1 at least three large regional newspapers; or

8.4.3.2 on the Company's website.

8.4.3 The accidental omission to give notice of a meeting or the non-receipt of a notice of meeting by any person entitled to receive notice shall not invalidate the proceedings of such a meeting.

8.5 Minutes and Resolutions

8.5.1 Minutes shall be kept of all resolutions and proceedings of General Meetings, meetings of the Board of Directors, round robin resolutions taken by the Board of Directors and Board Sub-Committees.

8.5.2 All minutes and resolutions must be dated and sequentially numbered and stored/filed so as to facilitate easy retrieval.

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 Full 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 Full 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. OFFICERS AND COMMITTEES

9.1 The Board of Directors may appoint any officers it considers necessary to better achieve the objects of the Company

9.2 The authority of the Board of Directors to appoint committees of Directors and to delegate authority to such committee as set out in section 72(1) of the Act and to include in such committees persons who are not Directors in terms of section 72(2)(a) of the Act is not limited by this Memorandum of Incorporation

9.3 The authority of a committee appointed by the Board of Directors as set out in section 72 of the Act is not limited by this Memorandum of incorporation

10. GENERAL PROVISIONS

10.1 Dissolution and Winding-Up

If 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.

10.2 Dispute Resolution

10.2.1 Any dispute arising out of or in connection with the interpretation, effect, implementation, rights and obligations under, or a breach of the provision of this Memorandum, and any matter arising out of or in connection with, as well as the rectification thereof, shall be referred for resolution firstly by way of mediation and in the event of that failing, then by way of arbitration. The reference to mediation is a precondition to the parties having the dispute resolved by arbitration.

10.2.2 Within 10 (ten) business days following written notification of a dispute such dispute shall be referred for resolution by way of mediation in accordance with the then current rules of the Arbitration Foundation of Southern Africa ("AFSA"). In the event of the mediation envisaged herein failing in terms of the rules of AFSA, the matter must, within 15 (fifteen) business days thereafter, be referred to arbitration as envisaged in section 10.3.3 below. The periods for mediation may be lengthened by written agreement between the parties.

10.2.3 Arbitration will be held as an expedited arbitration in Johannesburg, in accordance with the then current rules for expedited arbitration of AFSA by 1 (one) arbitrator appointed by agreement between the disputing parties. If the parties cannot agree on the arbitrator within a period of 10 (ten) business days after the referral of the dispute to arbitration, the arbitrator shall be appointed by the Secretariat of AFSA, who shall administer and manage the arbitration proceedings.

10.2.4 The parties irrevocably agree that any decision in such arbitration proceedings shall be binding on them and shall be carried into effect. Such decision may, at the discretion of any of the parties, be made an order of any court of competent jurisdiction and shall include such order as to costs as the arbitrator deem appropriate.

10.2.5 The provisions of this clause 10.3 shall not preclude any party from access to an appropriate court of law for 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 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 shall be stayed pending an arbitration of the dispute in terms thereof.

10.3 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.

10.4 Registered office

The registered office of the Company from time to time shall be at such location within the Republic of South Africa as the Board may from time to time determine.

10.5 Company records and accounting records

All company records contemplated by section 24 of the Act, and all accounting records contemplated by section 28 and Regulation 25 of the Act, shall be kept and maintained at, and shall be accessible at or from, the registered office of the Company, or in the case of all or any of the company records at or from such other location or locations within the Republic of South Africa as the Board may from time to time determine.

10.6 Special Tax Provisions

10.6.1 In it envisioned that the Company may wish apply for exemption from income tax in terms of Section 10 the Income Tax Act and classification in terms of Section 18A and such other tax exemptions as the Commissioner for the South African Revenue Service (Commissioner) may allow from time to time. In such event, and in order to qualify for tax exemption, the Company shall at all times company with the provisions of this clause 10.6, notwithstanding any contrary provision in this Mol.

10.6.2 The income and the capital of the Company, howsoever derived, shall be applied solely towards the promotion of the aim and object of the Company and no portion thereof shall be paid or transferred, directly or indirectly, to any person other than in the course of the promotion of the aim and object of the Company, provided that nothing herein contained

shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the Company in return for any services actually rendered to the Company.

- 10.6.3 Upon its dissolution the assets of the Company, remaining after the satisfaction of all of its liabilities, shall be given or transferred to some other association(s) or institution(s) having objectives similar to the aim and object and which organisation(s) or institution(s) shall have been approved as a public benefit organisation in terms of the Income Tax Act, as amended.
- 10.6.4 There shall at all times be a minimum of three Directors who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Company and no single person shall directly or indirectly control the decision making powers relating to the Company. For purposes of this clause, “connected person” has the meaning ascribed to that term in the Income Tax Act.
- 10.6.5 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 confirm to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of Section 18A of the Income Tax Act, provided that a donor (other than an approved public benefit organisation or institution, board or body which is exempt from tax in terms of section 10 of the Income Tax Act which has at its sole or principle object the carrying on of any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.
- 10.6.6 The Company shall submit copies of any amendments to this MoI to the Commissioner and to the Director of Non-profit Organisations, as may be required.
- 10.6.7 The Company shall not knowingly be a party to or permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Income Tax Act or any other Act administered by the Commissioner.
- 10.6.8 The Company will not pay any remuneration, as defined in the Fourth Schedule of the Income Tax Act, to any employee, office bearer, or other person which is excessive, having regard to what is generally considered reasonable in the market and in relation to the service rendered and will

not economically benefit any person in a manner which is inconsistent with the aim and object of the Company.

- 10.6.9 The Company shall comply with such reporting requirement as may be determined by the Commissioner.
- 10.6.10 The Company shall register in terms of Section 13(5) of the Non-profit Organisations Act, 1991 and comply with any other requirements imposed in terms of this Act.
- 10.6.11 The Company will not use its resources to directly or indirectly to support the advancement or opposition of any political party.
- 10.6.12 All financial transactions of the Company shall be conducted by means of a banking account held with a recognised commercial bank.
- 10.6.13 Any books of account, records or other document relating to the Company must, regardless of whether such documents are kept in book form or not, be retained and carefully preserved by the Company for a period of five years of the date of last entry in such book or document.

-END-