



MEMORANDUM OF INCORPORATION

**REPUBLIC OF SOUTH AFRICA
COMPANIES ACT, 71 OF 2008 (AS AMENDED)**

**SOUTH AFRICAN BEE INDUSTRY ORGANISATION
(NON-PROFIT COMPANY WITH MEMBERS)**

REGISTRATION NUMBER 2016/038841/08

(hereinafter referred to as “the Company”)

APPROVED ON 20 JULY 2024 AT THE DULY CONSTITUTED ANNUAL GENERAL MEETING OF
THE MEMBERS OF THE COMPANY

DocuSigned by:

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Chair of the Board: T Mobu

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1. INTERPRETATION

In this Memorandum, unless the context requires otherwise:

- 1.1. section or sections refers to a section or sections of the Companies Act, Act 71 of 2008, as amended;
- 1.2. Regulation or Regulations refers to a Regulation or Regulations of the Companies Regulations, 2011 in terms of section 223 and Item 14 of Schedule 5 of the Companies Act, Act 71 of 2008, as amended;
- 1.3. words importing
 - 1.3.1. any one gender shall include the other gender;
 - 1.3.2. the singular shall include the plural and vice versa;
 - 1.3.3. any word which is defined in the Act shall bear that defined meaning in this Memorandum;
- 1.4. the headings have been inserted for convenience only and shall not be used for or assist or affect their interpretation; and
- 1.5. each of the following words and expressions shall have the meaning stated opposite it and cognate expressions shall have a corresponding meaning, namely:

1.5.1	“Act” or “the Act”	means the Companies Act, Act 71 of 2008, as amended or re-enacted from time to time, and includes all Schedules to the Act (Companies Regulation Item 2(h) 2011).
1.5.2	“Apiculture”	The study and/or keeping of honeybees
1.5.3	“Audit”	has the meaning set out in the Auditing Profession Act, 2005 (Act 26 of 2005);
1.5.4	“Beekeeping Industry”	Shall include all persons involved in the keeping of honeybees whether for commercial (including pollination), small scale or hobby purposes; any persons involved in the bottling, packaging or manufacture of beekeeping equipment; and any persons involved in the capture
1.5.5	“Bee Products”	Shall include honey, pollen, beeswax, propolis, royal jelly or any other product created by honeybees or any composition thereof used for human consumption or commercial purposes.
1.5.6	“Board”	means the Board of Directors of the Company from time to time.
1.5.7	“Board Resolution”	means a Resolution by the Board of Directors where each Director has 1 (one) vote on a matter before the Board and a majority of the votes cast on the Resolution is sufficient to approve it (section 73(5)(c)(d)).
1.5.8	“the Company”	means South African Bee Industry Organisation with registration number 2016/038841/08 and duly incorporated in terms of the Companies Act, 71 of 2008, as amended from time to time.
1.5.9	“Commission”	means the Companies and Intellectual Property Commission established by section 185.
1.5.10	“DALRRD”	Department of Agriculture, Land Reform and Rural Development

1.5.11	“Director”	means a member of the Board as contemplated in Section 66 and includes any person occupying the position of a Director, by whatever name designated.
1.5.12	“Electronic Communication”	has the meaning set out in section 1 of the Electronic Communications and Transactions Act, No 25 of 2002.
1.5.13	“Ex Officio Director”	means a person who holds office as a Director of a particular Company solely as a consequence of that person holding some other office, title, designation or similar status specified in the Company’s Memorandum of Incorporation.
1.5.14	“Financial Reporting Standards”	with respect to any particular Company’s Financial Statements, means the standards applicable to that Company, as prescribed in terms of section 29(4) and (5) (section 1 of Act 71/2008).
1.5.15	“Financial Statements”	Annual Financial Statements.
1.5.16	“Financial year end”	means the end of the accounting period covering 12 (twelve) consecutive months over which the Company determines earnings and profits. The financial year serves as a period of reference for the Company and does not necessarily correspond to the calendar year.
1.5.17	“Income Tax Act”	means the Income Tax Act, No 58 of 1962, including any amendment, consolidation or re-enactment thereof.
1.5.18	“Independent Non-Executive Directors”	Means is one who is a non-executive director, does not represent the interests of any shareholder, is not employed in the company or its subsidiaries in any way and has no contractual interests in the company or group.
1.5.19	“Independently compiled and reported”	means that the Annual Financial Statements are prepared: <ul style="list-style-type: none"> a. by an independent accounting professional; b. on the basis of financial records provided by the Company; and c. in accordance with any relevant financial reporting standards (Companies Regulation 26(1)(e)(i) to (iii) 2011).
1.5.20	“Independent reviewer”	means a person referred to in Companies Regulation 29(4) and who has been appointed to perform an independent review under this Regulation (Companies Regulation 29(1)(a) 2011).
1.5.21	“Members”	means the organisations and individuals referred to in Clause 8.
1.5.22	“Member in good standing”	means a member whose membership fees have been duly paid in full by 31 May of the relevant calendar year and/or whose membership has not been suspended as provided for in Clause 11.
1.5.23	“Membership Fee”	means the amount paid to SABIO annually for membership in accordance with Clause 10.
1.5.24	“Moi”	Memorandum of Incorporation
1.5.25	“Non-Executive Director”	means a Directors not involved in the day to day management of the Company.
1.5.26	“Registered Beekeeper”	Means a person currently registered with DALRRD as a beekeeper
1.5.27	“SABIO”	means South African Bee Industry Organisation with registration number 2016/038841/08 and duly incorporated in terms of the Companies Act, 71 of 2008, as amended from time to time.

2. INCORPORATION

2.1 The Company is incorporated as a non-profit Company, as defined in the Act.

2.2 The Company is incorporated in accordance with, and is 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 of Incorporation.

3. OBJECT AND POWERS OF THE COMPANY

3.1 The Company is a non-profit Company with members, and with the following object:

- 3.1.1 Promoting and advancing the beekeeping industry in South Africa inclusive of transformation and conservation
- 3.1.2 Being the national spokesperson for the beekeeping industry in South Africa on all matters affecting the beekeeping industry
- 3.1.3 Acting as an umbrella body for all affiliated beekeeping bodies and assisting with the establishment and promotion of Beekeeping Associations throughout all provinces in South Africa

3.2 The Company shall have all the legal powers and capacity of an individual:

- 3.2.1 except to the extent necessarily implied by its stated objects;
- 3.2.2 except to the extent that a juristic person is incapable of exercising such a power or having such a capacity; and
- 3.2.3 subject to such restrictive conditions (as contemplated in section 15(2)(b)) and other limitations or qualifications contained in this Memorandum of Incorporation.

3.3 The powers of the Company may only be executed in accordance with the main object of the Company.

3.4 The Company may not:

- 3.4.1 amalgamate or merge with, or convert to, a profit Company; or
- 3.4.2 dispose of any part of its assets, undertaking or business to a profit Company, other than for fair value, except to the extent that such a disposal of an asset occurs in the ordinary course of the activities of the Company.

3.5 All of the activities of the Company shall be carried out in a non-profit manner and with an altruistic or philanthropic intent and no such activity shall be intended to directly or indirectly promote the economic self-interest of any director, officer or employee of the Company, otherwise than by way of reasonable remuneration payable to that director, officer or employee.

4. LIMITATION OF LIABILITY

This Memorandum does not impose any liability on any person for the liabilities or obligations of the Company, solely by reason of such person being an Incorporator or Director of the Company as contemplated in Section 19(2) of the Act. Section 19(2)

5. ALTERATIONS AND AMENDMENTS TO THE MEMORANDUM OF INCORPORATION

5.1 This Memorandum of Incorporation of the Company may be altered or amended in the manner set out in section 16, 17 or 152(6)(b), subject to the following:

- 5.1.1 if the Company is exempted from payment of normal tax a copy of any such amendment shall be sent to the Commissioner for the South African Revenue Service or his authorised representative;
- 5.1.2 if the Company is registered as a Non-profit Organisation then a copy of any amendments shall be sent to the Directorate of Non-profit Organisations.

6. COMPANY RULES

- 6.1 In terms of this Memorandum of Incorporation the Company is not limited from making, amending or appealing any Company Rules as contemplated in section 15(3) of the Act, and the Board’s capacity to make such Rules is not hereby limited or restricted. Section 15(3).
- 6.2 The Board shall publish these Company Rules in terms of section 15(3), (4) and (5) by delivering a copy of the Rules to each Director and Member, by publishing a copy of those Rules in any manner required or permitted by the Company’s Memorandum of Incorporation, or the Rules of the Company, and filing a copy of those Rules. Section 15(3)(a)(b)
- 6.3 Any Rules proposed by the Board will take effect 20 (twenty) business days after the filing of that Rule, or on the date specified in the Rule.

7. CORPORATE PARTNER (NON-MEMBERS)

- 7.1 A Corporate Partner is defined as a corporate entity that collaborates with SABIO but does not hold formal membership status within the Company.
- 7.2 These entities engage in cooperative efforts, initiatives, or projects with SABIO that support the objectives and activities of the Company, contributing to the advancement and sustainability of the beekeeping industry in South Africa.
- 7.3 Corporate Partners do not possess voting rights or the authority to direct the governance or operational decisions of SABIO. However, they are encouraged to participate in discussions, share expertise, and provide input on relevant matters, fostering a collaborative relationship with the Company for mutual benefit and the advancement of shared goals within the apiculture sector.

8. MEMBERSHIP

8.1 The Company offers various types of memberships designed to cater to the diverse needs and interests of individuals and organisations within the beekeeping community, namely:

8.1.1	Small Member	Association	A voluntary association of persons with an interest in apiculture, based within a local, regional, or geographical area, and having between 10 to 50 registered beekeepers as members. This includes legally established co-operative groups of beekeepers with a similar structure.
8.1.2	Medium Member	Association	A voluntary association of persons with an interest in apiculture, based within a local, regional, or geographical area, and having

		between 51 to 150 registered beekeepers as members. This includes legally established co-operative groups of beekeepers with a similar structure.
8.1.3	Large Association Member	A voluntary association of persons with an interest in apiculture, based within a local, regional, or geographical area, and having more than 150 registered beekeepers as members. This includes legally established co-operative groups of beekeepers with a similar structure.
8.1.4	Corporate Member	Any corporate body that has an interest in apiculture or engages in activities, either directly or indirectly related to the beekeeping industry, and wishes to support the aims and objectives of SABIO. These corporate entities may include agricultural businesses, manufacturers of beekeeping equipment, suppliers of bee products, research institutions, educational institutions, and other organisations involved in sectors that complement or support beekeeping activities.
8.1.5	Start-Up Beekeeper	Any small-scale beekeeper who is registered with a beekeeper development programme under the auspices of the DALRRD. This registration is limited to a period of three years from the date of enrolment. Start-up Beekeepers must provide documented proof of their participation in a recognised beekeeper development programme administered by DALRRD. These individuals are encouraged to engage in activities that promote sustainable beekeeping practices, receive support and training from the programme, and contribute to the growth and development of the beekeeping industry in South Africa.
8.1.6	Individual Member	A natural person or business entity engaged in activities related to beekeeping.
8.1.7	Professional Member	A beekeeper or beekeeping enterprise actively engaged in activities directly related to the beekeeping industry and who wishes to support the aims and objectives of SABIO. Professional Members typically include commercial beekeepers, apiarists, beekeeping consultants, researchers, educators, and other professionals involved in the management, production, or promotion of beekeeping products and services.

9. APPLICATION FOR MEMBERSHIP

- 9.1 Applicants must be registered with the DALRRD as a beekeeper and provide a copy of the issued registration number with their application.
- 9.2 Applicants must complete the provided registration form.
- 9.3 A copy of the Association’s Constitution must be submitted along with proof of the number of persons registered with SABIO.
- 9.4 Start-up beekeepers must provide proof of registration with a beekeeper development program under the auspices of the DALRRD.

10. MEMBERSHIP FEES

- 10.1 The joining fees and membership fees shall be as determined from time to time by the Board.
- 10.2 The membership fees, as determined by the Board, shall be paid annually by members no later than 31 May of the current calendar year.
- 10.3 Failure by a member to pay the annual membership fee by 31 May shall result in such member no longer being in good standing.
- 10.4 Members not in good standing shall not be entitled to attend a members' meeting (including an annual general meeting), participate in any deliberations at such meetings, or exercise any other rights of members, including voting rights, as set out in this Memorandum, for the period during which such member is not in good standing.
- 10.5 Failure by a member to pay the joining fee within the stipulated time shall result in the automatic termination of the membership of such member.

11. TERMINATION OF MEMBERSHIP

- 11.1 A member shall ipso facto cease to be a member of SABIO if:
- 11.1.1 being a legal entity, the member is placed under business rescue or an order for the final winding up of the member is granted, or a special resolution for the winding up of the member is duly passed and registered in terms of the relevant legislation;
 - 11.1.2 the member is placed under curatorship;
 - 11.1.3 the member is removed as a member as envisaged in Clause 11.2 below;
 - 11.1.4 being a new member, the member fails to pay the joining fee within the prescribed period; or
 - 11.1.5 if by notice in writing to the Board, the member resigns as a member of SABIO.
- 11.2 All categories of membership may be suspended or terminated in terms of the following provisions:
- 11.2.1 If it shall appear to the Board that a member has:
 - 11.2.1.1 acted wilfully in contravention of any provision of this Memorandum of Incorporation or the SABIO Code of Conduct and Ethics; and/or
 - 11.2.1.2 been guilty of bringing SABIO into disrepute; and/or
 - 11.2.1.3 been guilty of conduct which has rendered or may render the member unfit to remain a member of SABIO;the matter shall be considered by the Board at the earliest opportunity.
 - 11.2.2 The Board shall, on not less than 14 (fourteen) days' written notice:
 - 11.2.2.1 advise the member of the intention of the Board to consider the matter; and
 - 11.2.2.2 invite the member to be present in order to make such representations and advance such facts as may be relevant to the matter to be considered.
 - 11.2.3 The member may then within 14 (fourteen) days make such representation and advance such facts in writing or may personally appear to do so at the time the matter is considered by the Board.

- 11.2.4 The Board may, on consideration of the matter and in an appropriate case:
- 11.2.4.1 make such ruling in the circumstances as it may deem just in the interests of the member and SABIO, including suspending the membership of the member for such period as the Board deems appropriate; or
 - 11.2.4.2 recommend the termination of membership to the annual general meeting of members, at any meeting of members, or by way of a resolution as contemplated in Clause 18. If accepted, the member's name will be deleted from the register of members, whereupon the member shall cease to be a member of SABIO.
- 11.3 Any member whose membership is terminated as envisaged herein for whatever reason shall thereupon cease to be a member and shall have no claim whatsoever against SABIO or the Board arising from such termination, whether for charges, return of membership fees, or otherwise.
- 11.4 Any member whose membership is suspended as envisaged herein for whatever reason shall not be entitled to receive notice of any members' meeting or attend any members' meeting for such period as the suspension remains in place.
- 11.5 Notwithstanding the termination of the membership of a member as envisaged herein, SABIO shall have the right to institute legal action against such member to recover any outstanding monies due to SABIO, including outstanding membership fees.

12. MEETING OF MEMBERS

- 12.1 SABIO shall convene an Annual General Meeting of its members in good standing once in each calendar year, but no more than 15 (fifteen) months after the date of the previous Annual General Meeting, or within an extended time allowed by the Companies Tribunal on good cause shown. *Section 61(7)*.
- 12.2 Subject to the provisions of the Act relating to meetings of which notice is required to be given, any members' meeting shall be called by at least 15 (fifteen) business days' notice in writing. *Section 62(1)*.
- 12.3 The notice shall specify the place, the day, and the hour of the meeting and, in the case of special business, the general nature of the business, and shall be given, in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by SABIO at a meeting of members, to such persons as are, under the provisions of this Mol, entitled to receive such notices from SABIO. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings of that meeting. *Section 62(3)*.
- 12.4 Notice of any members' meeting shall be given to all members in good standing only.
- 12.5 Members' meetings may be held by electronic communication as provided for in sections 63(2) and (3) of the Companies Act.

13. LOCATION OF MEMBERS MEETINGS

13.1 The Board is authorised to determine the location of any members' meeting, and this MoI does not limit or restrict the authority of the Company to hold any such meeting in South Africa or in any foreign country, as set out in section 61(9).

13.2 The Board may make such arrangements as it shall in its absolute discretion consider to be appropriate for any of the following purposes:

13.2.1 to regulate the level of attendance at any place specified for the holding of a Members' Meeting or any adjournment of such meeting; or

13.2.2 to ensure the safety of people attending a meeting at any time;

13.2.3 to facilitate attendance at that meeting or adjournment,

and may from time to time vary any such arrangements or make new arrangements in their place.

14. PROXIES

14.1 Representation by concurrent proxies

The rights of a member to appoint persons concurrently as proxies are not restricted or limited by this MoI, as more fully contemplated in section 58(3)(a).

14.2 Authority of proxy to delegate

Save for any restriction set out in the instrument appointing the proxy, the authority of a member's proxy to delegate the proxy's powers to another Person is not limited to or restricted by this MOI, as more fully contemplated in section 58(3)(b).

14.3 Requirement to deliver proxy instrument to the Company

The requirement that a member must deliver to the Company, or to any other person on behalf of the Company, a copy of the instrument appointing a proxy before that proxy may exercise the member's rights at a members meeting is not varied by this MoI, as more fully contemplated in section 58(3)(c).

15. QUORUM REQUIREMENTS AT MEMBERS' MEETINGS

15.1 Subject to section 64 and the remaining provisions of this Clause 15, a quorum at any Members' Meeting shall be at least 3 (three) members in good standing, present in person or represented by proxy, entitled to attend and vote. In addition: *Section 64(1)*.

15.1.1 A Members' Meeting may not begin until sufficient persons are present to exercise, in aggregate, at least 25% (twenty-five percent) of all of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and

15.1.2 A matter to be decided at the meeting may not begin to be considered unless sufficient persons are present to exercise, in aggregate, at least 25% (twenty-five percent) of all of the voting rights that are entitled to be exercised on that matter at the time the matter is called on the agenda.

15.2 After a quorum has been established for a Members' Meeting, or for a matter to be considered at a Members' Meeting, the meeting may continue, or the matter may be considered as long as the members forming part of the quorum are present for the matter to be considered.

15.3 A Members' Meeting, or the consideration of any matter being debated at a Members' Meeting, may be adjourned as contemplated in sections 64(10), 64(11), and 64(12), it being recorded that the periods of adjournment set out in section 64(12) will apply without variation.

15.4 When a meeting is adjourned as a result of a direction given in terms of the Companies Act, notice of the adjourned meeting shall be given only if prescribed by the Companies Act and then only in the manner prescribed by the Companies Act but, save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

15.5 Subject to Clause 15.6 below:

15.5.1 Any Director; or

15.5.2 The Company's attorneys (or where the Company's attorneys are a firm or a company, any partner, director, or employee thereof); or

15.5.3 Any other person admitted by the Chair of the meeting; or

15.5.4 Any member of a committee of the Board,

may attend and speak at any Members' Meeting but may not vote unless they are a member in good standing or the proxy or representative of a member in good standing.

15.6 Before any person may attend, vote, or participate in a Members' Meeting:

15.6.1 That person must present reasonably satisfactory identification; and

15.6.2 The person presiding at the meeting must be reasonably satisfied that the right of that person to participate and vote, either as a member or as a proxy for a member, has been reasonably verified.

16. PROCEEDINGS AT MEMBERS' MEETINGS

16.1 The business to be transacted at an annual general meeting shall include, but not be limited to:

16.1.1 the presentation of the audited financial statements, including the directors' and auditors' reports; *Section 61(8)(a)*

16.1.2 the election of Non-Executive Directors; *Section 61(8)(b)*

16.1.3 Non-Executive Directors retiring by rotation;

16.1.4 the notification of suspension of membership by the Board;

16.1.5 the approval of the termination and cancellation of membership;

16.1.6 the appointment of auditors. *Section 61(8)(c)*

16.2 Business may be transacted at any Meeting of Members only while a quorum is present.

16.3 If the Chair or vice-Chair of the Board is absent or unwilling to preside over a meeting of SABIO members within fifteen (15) minutes of the meeting's scheduled start time, the

members present shall select a director to serve as Chair. If no director is available or willing to take the chair, the members may nominate any authorised representative of a member present to act as Chair of the meeting.

16.4 The Chair may adjourn a meeting with the consent of those present (and must if directed by the meeting), continuing it later at the same or another place. No new business can be discussed at adjourned meetings, only unfinished items from the original meeting. If adjourned under statutory direction, notice must follow statutory rules, but otherwise, no separate notice is needed for adjourned business.

17. VOTING AT MEMBERS’ MEETINGS

17.1 The voting rights to which members are entitled to vote, shall be as follows:

17.1.1	Small Association Member	One vote for every 25 registered beekeepers that are paid up members of that Association, up to a maximum of 2 votes.
17.1.2	Medium Association Member	One vote for every 25 registered beekeepers that are paid up members of that Association, up to a maximum of 6 votes.
17.1.3	Large Association Member	One vote for every 25 registered beekeepers that are paid up members of that Association, up to a maximum of 10 votes.
17.1.4	Corporate Member	One vote
17.1.5	Start-Up Beekeeper	One vote
17.1.6	Individual Member	One vote
17.1.7	Professional Member	One vote

17.2 At a Members' Meeting, voting shall take place by way of polling

17.3 Any person who is present at the members’ meeting, whether as a member in good standing or as proxy for a member in good standing, has the number of votes determined in accordance with the Voting Rights associated with the membership held by that member.

17.4 At any Members' Meeting, a resolution will be decided by a poll. The Chair's declaration that the resolution has been carried, carried unanimously, carried by a specific majority, or lost, and the entry of this declaration in the minute book, will be final proof of the result without needing to show the number or proportion of votes for or against the resolution.

17.5 No objections to the validity of a vote can be made except at the meeting where the vote was cast or at an adjourned meeting. Any vote not disallowed at that meeting will be valid. Objections will be decided by the Chair of the meeting, whose decision, if made in good faith, will be final and binding.

17.6 The Chair of the Members' Meeting may:

- 17.6.1 appoint any firm or person(s) to act as scrutineers for the purposes of checking the powers of attorney received and for counting the votes at the meeting; and
- 17.6.2 rely on a confirmation from the scrutineers without needing to see the actual proxy document or count the votes personally.

- 17.6.3 If any votes were incorrectly counted or not counted, the mistake will not invalidate the resolution unless it is brought to the Chair's attention during the meeting and the Chair decides the error is significant enough to affect the outcome.

18. MEMBERS RESOLUTIONS

- 18.1 For an Ordinary Resolution to be approved by Members, it must be supported by more than 50% (fifty percent) of the Voting Rights exercised on the resolution. *Section 65(7)*
- 18.2 For a Special Resolution to be approved by Members, it must be supported by at least 75% (seventy-five percent) of the Voting Rights exercised on the resolution. *Section 65(9)*
- 18.3 A Special Resolution is required for the following actions: *Section 65(11)*
- 18.3.1 Amend the Company's Memorandum of Incorporation (Mol);
 - 18.3.2 Ratify a consolidated revision of the Company's Mol;
 - 18.3.3 Ratify actions by the Company's directors that exceed their authority;
 - 18.3.4 Authorise the Board to grant financial assistance to a director or prescribed officer, or to a related or inter-related company or corporation, or to a member of a related or inter-related corporation, or to a person related to any such company, corporation, director, prescribed officer, or member;
 - 18.3.5 Authorise the basis for compensation to directors;
 - 18.3.6 Approve the voluntary winding up of the Company;
 - 18.3.7 Approve an application to transfer the registration of the Company to a foreign jurisdiction; and
 - 18.3.8 Approve any proposed fundamental transaction.

19. THE BOARD OF DIRECTORS

19.1 Composition

- 19.1.1 The number of directors shall be a minimum of three (three of whom are not 'connected persons' [as defined in the Income Tax in relation to one another] and a maximum of thirteen. No single person shall, directly or indirectly, control the decision-making powers of SABIO. *Section 66(2)*
- 19.1.2 The only *ex officio* director will be the Chief Executive Officer which shall be appointed by the Board. The Chief Executive Officer shall be a director for as long as they hold the position of Chief Executive Officer. Once their services are ended as Chief Executive Officer it will automatically be considered that have resigned from the Board as a director. The Chief Executive Officer shall not be liable to receive remuneration for their services as a director. The Chief Executive Officer will receive a salary. If the Chief Executive Officer resigns, he/she may only be appointed as a Non-Executive Director on the Board after a cooling off period of three years. *Section 66(4)(a)(ii)*

19.2 Board Term

No Non-Executive Director shall be appointed for life or for an indefinite period. Non-Executive Directors shall be appointed for a five-year term and may not serve more than three consecutive

terms (with the exclusion of the *ex officio* director who will serve on the Board for the duration of their employment). Non-Executive Directors who have served two consecutive terms are eligible for re-election after a cooling off period of at least two years.

19.3 Retire by Rotation

The Non- Executive Directors shall rotate in accordance with the following provisions:

- 19.3.1 Annually (one third) of the Non-Executive Directors for the time being, or if their number is not 3 (three) or a multiple of 3 (three), the number nearest to 1/3 (one third), but not less than 1/3 (one third), shall retire from office.
- 19.3.2 The Non-Executive Directors to retire in any year shall be those who have been longest in office since their last election.
- 19.3.3 The retirement by rotation shall not be applicable to *ex officio* Directors.

19.4 Vacancy on the Board

- 19.4.1 All Non-Executive Directors shall be elected by an Ordinary Resolution at any Members' Meeting or at the Annual General Meeting, as applicable. The election process shall comply with the provisions set forth in section 68(2).
- 19.4.2 The Board can appoint someone who qualifies as a Non-Executive Director to fill any vacancy. This appointee serves until the next Annual General Meeting, unless members confirm them earlier, or until the vacancy is filled by election under Clause 19.4.1. They have full Director powers, duties, and liabilities during this time. The Board's authority in this matter isn't limited by the Mol.
- 19.4.3 The office of a director shall *ipso facto* be vacated:
 - i. if by one month's written notice to the Company, the director resigns from office;
 - ii. if the director ceases to be a director by virtue of the Act;
 - iii. if the director is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare her/his interest and the nature thereof in the manner required by the Act;
 - iv. if the director is removed from office in terms of Section 71 of the Act; or
 - v. if the director fails to attend three consecutive meetings of directors, without being excused therefrom by the remaining directors.

20. AUTHORITY OF THE BOARD OF DIRECTORS

The authority of the Company's Board of directors to manage and direct the business and affairs of the Company, as set out in section 66 (1) is limited or restricted to the extent that the powers of the Company are limited in this Memorandum.

21. BOARD OF DIRECTORS MEETINGS AND PROCEDURES

21.1 The Directors may convene, adjourn, and regulate their meetings as they deem necessary.

21.2 The right of the Directors to call a meeting may be exercised by:

- 21.2.1 At least 25% of the Directors, where the Board has at least 12 members; or

- 21.2.2 Any single Director, notwithstanding section 73(1)(b)(ii).
- 21.3 This MoI allows the Board to conduct meetings entirely through Electronic Communication, as per section 73(3). Resolutions passed in this manner are valid as if passed at a physical meeting.
- 21.4 No Directors' meeting may be called without notice to all Directors, unless the notice period had been waived.
- 21.5 Notwithstanding any contrary provision, a meeting may proceed if all Directors acknowledge receipt, are present, or waive notice, even if notice was deficient.
- 21.6 A majority of Directors must be present to call a vote, including a majority of non-executive Directors and, if applicable, the CEO or another designated executive Director.
- 21.7 If a quorum is not present within 30 minutes of the appointed time, the meeting may adjourn to a later date. Urgent matters may adjourn sooner with notice provided.
- 21.8 A person whose election as Director is a nullity in terms of section 66(6), or who ceases to be a Director in terms of section 70, shall not be counted towards any quorum of Directors.
- 21.9 The Company must maintain minutes of Board and committee meetings, including declarations by Directors and all adopted resolutions. Minutes must be dated, numbered sequentially, and effective from the resolution date unless stated otherwise.
- 21.10 Minutes or resolutions signed by the meeting's Chair or the next meeting's Chair serve as evidence of the meeting's proceedings or resolution adoption. Section 73(8)
- 21.11 An extract from such minutes or extract from any Resolution in writing, if signed by any Director, shall be evidence of the matters stated in such minutes or extract.

22. DIRECTORS PERSONAL FINANCIAL INTEREST

- 22.1 If there is placed upon the agenda of a meeting or during the course of meetings or correspondence of directors there arises any matter in which any director (or any person in relation to whom a director is a 'connected person' (as defined in the Income Tax Act)), has a personal financial interest, the relevant director shall: *Section 75(5)*
- 22.1.1 immediately and in advance of the matter being dealt with, disclose the fact and nature of such personal financial interest;
 - 22.1.2 inform the relevant meeting of material information and answer questions concerning the personal financial interest.
 - 22.1.3 may disclose any observations or pertinent insights relating to the matter, if requested to do so by the other directors;
 - 22.1.4 must be recused from the meeting once the matter concerning the personal financial interest; and
 - 22.1.5 not be entitled to vote on or sign any document in relation to the matter in which the personal financial interest arises.

23. BOARD RESOLUTIONS

- 23.1 Each Director has 1 (one) vote on a matter before the Board in terms of section 73(5)(c) except that:
- 23.1.1 a Director whose ineligibility to serve as a Director has been determined in terms of this Memorandum of Incorporation, shall not have a vote in respect of that matter in terms of section 71(3);
 - 23.1.2 a Director who has been suspended in terms of section 70(2) shall not have a vote on any matter before the Board;
 - 23.1.3 a Director who has a personal financial interest in respect of a matter to be considered by the Board or who knows that a related person has a personal financial interest in the matter in terms of section 75(4) or 75(5), shall not have a vote in respect of that matter in terms of section 75(5)(f)(ii).
- 23.2 The majority of the votes of the Directors present and entitled to exercise and exercising their vote on a matter is sufficient to approve a Board Resolution, provided that there is at least a quorum of Directors present and so exercising their votes on a matter.
- 23.3 An abstention from Voting shall not be counted as an exercise of a vote, and shall in terms of section 73(5)(d) be disregarded for purposes of calculating whether or not a majority has been obtained.
- 23.4 Where the vote is tied, the Chair of the Board shall not in the event of such a tie, have a second or casting vote in terms of section 73(5)(e)(i); however the Board will endeavour to come to a decision in the best interest of the Company.
- 23.5 The vote of any person whose election as a Director is a nullity in terms of section 66(6), or who ceases to be a Director in terms of section 70, shall not with effect from the time that vote is cast be counted towards any vote of Directors.
- 23.6 A Resolution will have been adopted as a Board Resolution if it has been supported in writing by the requisite majority of the Directors in person who are entitled to exercise and exercise Voting rights on the Resolution proposed, and, if so adopted, such a Resolution will have the same effect as if it had been adopted at a quorate Board Meeting. Section 74(1) and section 74(2)
- 23.7 A Written Resolution of Directors shall be deemed to have been passed on the date specified in the Resolution as the effective date of the Resolution provided that the effective date is not a date earlier than the date the Resolution was submitted to Directors for their consideration and, if deemed fit, adoption or, failing any such effective date being specified in the Resolution, shall be deemed to have been passed on the date on which the Resolution was approved in writing by the last of the Directors entitled to do so Voting in favour of the Resolution or if that, or any other written approval is undated, the date on which such written approval was communicated to the Company within the 10 (ten) business days, which votes in favour of the Resolution in aggregate are sufficient for the Resolution to have been passed. Section 73(7)(b)

24. STANDARDS OF DIRECTORS' CONDUCT

- 24.1 In this clause, Director includes a Prescribed Officer or a person who is a Member of a Committee of a Board of the Company or of the Audit Committee of the Company, if applicable,

irrespective of whether or not the person is also a Member of the Company's Board. *Section 76(1)(a)(b)*

24.2 A Director of the Company shall not use the position of Director, or any information obtained while acting in the capacity of a Director to gain an advantage for the Director or for another person other than the Company or a wholly-owned subsidiary of the Company, or to knowingly cause harm to the Company or a subsidiary of the Company and communicate to the Board at the earliest practicable opportunity any information that comes to the Director's attention, unless the Director reasonably believes that the information is immaterial to the Company or generally available to the public, or known to the other Directors; or is bound not to disclose that information by a legal or ethical obligation of confidentiality. *Section 76(2)(a)(i)(ii) and section 76(2)(b)(i)(ii)*

24.3 A Director of the Company shall exercise the powers and perform the functions of a Director in good faith and for a proper purpose, in the best interests of the Company and with the degree of care, skill and diligence that may reasonably be expected of a person, carrying out the same functions in relation to the Company as those carried out by that Director, and having the general knowledge, skill and experience of that Director. *Section 76(3)(a)(b) and section 76(3)(c)(i)(ii)*

24.4 A Director would have fulfilled its duties in terms of Clause 24 if:

24.4.1 the Director has taken reasonably diligent steps to become informed about the matter;

24.4.2 the Director has no material personal financial interest in the subject matter of the decision, and has no reasonable basis to know that any related person has a personal financial interest in the matter; or

24.4.3 the Director has disclosed any personal financial interest in advance to either the Board, with regard to that matter, and the Director has a rational basis for believing and shall believe, that the decision was in the best interests of the Company and is entitled to rely on:

a) the performance by one or more employees of the Company whom the Director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports or statements provided;

b) legal counsel, accountants or other professional persons retained by the Company, the Board or a Committee as to matters involving skills or expertise that the Director reasonably believes are matters within the particular person's professional or expert competence or as to which the particular person merits confidence; or

c) a Committee of the Board of which the Director is not a Member. *Section 76(4)(a)(i)-(iii), section 76(4)(b)(i)(ii), section 76(5)(a), section 76(5)(b)(i)(ii) and section 76(5)(c)*

25. OFFICERS, COMMITTEES AND STAKEHOLDERS

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

25.2 The Board of Directors shall appoint a chief executive officer as an ex-officio director to manage the day-to-day affairs and business of the Company, and such chief executive officer

shall have delegated to them such powers as may be necessary in order to fulfil their duties, subject to such limits as may be laid down by the Board from time to time.

- 25.3 The Board of directors may appoint committees of directors, and delegate to any such committee any of the authority of the Board, and/or include in any such committee persons who are not directors.
- 25.4 The authority of a committee appointed by the Company's Board, as set out in section 72 (2)(b) and (c) is limited and restricted to the extent that the powers of the Company are limited by this Mol.
- 25.5 The Board of directors may invite such stakeholders as it sees fit to form an advisory council of the Company. The Board may consult with such advisory council on matters of vision, policy and other matters which concern the stakeholders represented by such council from time to time.

26. ACCOUNTING RECORDS, BANKING AND RECEIPT OF DONATIONS

- 26.1 The directors shall cause such accounting records as are prescribed by section 28 to be kept.
- 26.2 The accounting records shall be kept in the registered office of the Company or at such other place or places as the directors think fit and shall always be open to inspection by the directors.
- 26.3 The financial transactions of the Company shall be administered via one or more bank accounts which shall be opened in the name of the Company.
- 26.4 The Company shall be 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 representation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act: Provided that a donor (other than a donor which is an approved public benefit organisation or an institution or body which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act, which has as its sole or principal 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.

27. EXPENDITURE AND USE OF RESOURCES

- 27.1 The income and property of the Company, whencesoever derived, shall be applied solely towards the promotion of its main object or invested and no funds will be distributed to any person other than in the course of undertaking any 'public benefit activity' (as defined in the Income Tax Act) and no portion of the income or assets of the Company may be paid or transferred, directly or indirectly, to the directors or persons appointing directors of the Company; provided that this shall not prevent:
- 27.1.1 the payment in good faith of reasonable remuneration to any officer or servant of the Company, for any services rendered to the Company.
 - 27.1.2 payment of an amount due and payable by the Company in terms of a bona fide agreement between the Company and that person;
 - 27.1.3 payment in respect of any rights of that person, to the extent that such rights are administered by the Company in order to advance a stated object of the Company;
- or

27.1.4 payment in respect of any legal obligation binding on the Company.

27.2 The Company may, in order to ensure that its objects are sustainably pursued in the long term, engage in such trading and other commercial activities as the directors may determine, from time to time; provided that these activities shall be engaged in to support, fund and further the main objects of the Company.

27.2.1 No remuneration (as defined in the Fourth Schedule to the Income Tax) shall be paid to any employee, office bearer, director or other person which is excessive, having regard to what is generally considered reasonable in the appropriate sector and in relation to the service rendered, and no person shall be economically benefitted in any way which is not consistent with the objects of the Company;

27.3 The Company shall not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to a director of the Company or of a related or inter-related Company, or to a person related to any such director, unless it

27.3.1 is in the ordinary course of the Company's business and for fair value;

27.3.2 constitutes an accountable advance to meet

- a) legal expenses in relation to a matter concerning the Company; or
- b) anticipated expenses to be incurred by the person on behalf of the Company;

27.3.3 is to defray the person's expenses for removal at the Company's request; or

27.3.4 is in terms of an employee benefit scheme generally available to all employees or a specific class of employees.

27.3.5 The Company shall not use its resources directly or indirectly to support, advance or oppose any political party.

27.3.6 No expenditure shall be incurred by or on behalf of the Company except on authority of the Board or of the person or persons to whom the board has generally or specifically delegated the power to authorise expenditure. The Board shall establish and maintain a delegation framework which shall record such delegation of its powers.

28. ANNUAL FINANCIAL STATEMENTS AND RETURNS

28.1 The Directors shall, in accordance with Sections 29 and 30, cause to be prepared and laid before the board such annual financial statements as are referred to in those sections, which annual financial statements: `

28.1.1 shall be prepared within 6 months of the end of each financial year;

28.1.2 shall be audited in terms of section 30(2)(b);

28.1.3 shall include a report by the directors as to the activities and financial state of the Company; and

28.1.4 shall be approved by the Board and signed by an authorised director.

28.2 A copy of the annual financial statements shall, within a reasonable time prior to the relevant board meeting, be sent to every director of the Company.

28.3 The Company shall file annual returns with the Companies and Intellectual Property Commission within 30 business days of each anniversary of its date of incorporation, along with such payment, documents and information as may be required from time to time.

29. RESERVES

The directors shall set aside and carry to a reserve fund all the surplus funds of the Company, which may at their discretion be invested or applied for any purpose for which such funds of the Company may properly be applied in such manner as the directors deem fit. The directors may appoint an endowment fund manager or other investment agency or professional, to invest reserves, surplus or deferred funds for the Company.

30. REMUNERATION OF AND CONTRACTS WITH DIRECTORS

30.1 The Company may pay remuneration to the Independent Non-Executive Directors for their services as Independent Non- Executive Directors as approved by members from time to time. Directors who are not in a position to accept this remuneration may request the Company to donate it to a not-for-profit organisation selected by them. *Section 66(9)*

30.2 Directors may, subject to the prior approval of a disinterested majority of the directors of the Company by resolution and recorded in the minutes, be reimbursed by the Company for reasonable and necessary expenses incurred in the bona fide performance of their duties to the Company. This shall include any reimbursement of any expense not of a category of expenses expressly budgeted for in the annual budget of the Company approved by the Board or of an amount exceeding any limit with respect to any category of expenses specified in the annual budget of the Company approved by the Board.

30.3 Executive Board directors will receive no additional fees by virtue of their membership of the Board but will be paid as employees of the Company in accordance with their contracts of employment.

30.4 The Company may pay any director who serves on any committee or who devotes special attention to the business of the Company, or otherwise performs services which in the opinion of the directors are outside the scope of the ordinary duties of a director, such extra remuneration as they may determine, subject to the provisions of Clauses 30.1 and 30.2 and provided that such remuneration is expressly authorised by the prior approval of the disinterested directors and recorded in the minutes. Care shall be exercised in allocating such remunerated duties to members of the Board that these do not straddle or conflict with employee mandates.

30.5 Directors shall be entitled to contract with the Company and with any entity in which the Company may be interested provided that they may not vote on such contract or on any other matter in which they are interested, directly or indirectly.

30.6 Directors shall be entitled to act in their professional capacity on behalf of the Company and perform professional services for the Company and to charge a reasonable fee therefor.

31. NON-PROFIT ORGANISATIONS ACT

The directors may apply for the Company to be registered as a Non-Profit Organisation and shall, if so registered, ensure that the Company complies with all the requirements of the Non-profit

Organisations Act No.71 of 1997.

32. PUBLIC BENEFIT ORGANISATION

The directors may apply for the Company to be registered as a Public Benefit Organisation and shall, if so registered, ensure that the Company complies with all the requirements of the Income Tax Act of 58 of 1962.

33. INDEMNIFICATION OF DIRECTORS

- 33.1 Every director and officer of the Company, every member of any committee of the Company, and any person employed by the Company as auditor, shall be indemnified by the Company against all liability incurred by them as such director, officer or auditor, in defending any proceedings, whether civil or criminal, in which judgment is given in his favour, or in which he is acquitted, or in respect of any proceedings which are abandoned or in connection with any application under Section 77(9) in which relief is granted to them by the Court.
- 33.2 No director, officer or employee of the Company shall be liable for
- 33.2.1 loss or expense incurred by the Company through the insufficiency or deficiency of any security in or upon which any of the monies of the Company are invested;
 - 33.2.2 any loss or damage arising from the bankruptcy, insolvency or delictual acts of any persons with whom monies, securities or effects shall be deposited;
 - 33.2.3 any loss or damage occasioned by any error of judgment or oversight on his/her part; or
 - 33.2.4 any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his/her office, or in relation thereto, unless the same happened through his/her own gross negligence, default, breach of duty or wilful misconduct or wilful breach of trust.
- 33.3 The authority of the Company's Board of directors to advance expenses to a director, or indemnify a director, in respect of the defence of legal proceedings, to indemnify a director in respect of liability and to purchase insurance to protect the Company set out in sections 78 (3), 78 (5) and 78 (6), is not limited or restricted by this Memorandum of Incorporation.
- 33.4 The Company may purchase insurance to protect:
- 33.4.1 a director against any liability or expenses for which the Company is permitted to indemnify a director in accordance with Clause 33; or
 - 33.4.2 the Company against any contingency including, but not limited to:
 - a) any expenses that the Company is permitted to advance; or
 - b) any liability for which the Company is permitted to indemnify a director;
 - c) The Company is entitled to claim restitution from a director of the Company for any money paid directly or indirectly by the Company to or on behalf of that director in any manner inconsistent with this Clause 33.

34. WINDING UP, DEREGISTRATION OR DISSOLUTION

34.1 Upon its winding up, deregistration or dissolution no past or present director of the Company, or person appointing a director of the Company, is entitled to any part of the net value of the Company, but the assets of the Company remaining after the satisfaction of all its liabilities shall be given or transferred to some other organisation or organisations to be determined by the directors of the Company at or before the time of its dissolution, or failing such determination, by the court and which:

- 34.1.1 are non-profit,
- 34.1.2 have objects similar to its main object;
- 34.1.3 if the Company is so registered, is/are registered in terms of the Non-profit Organisations Act, 1997; and
- 34.1.4 if the Company is exempt from income tax, donations tax and estate duty, under the relevant laws of the country is/are:
 - a) any similar public benefit organisation, which has been approved in terms of section 30 of the Income Tax Act; 1
 - b) any institution, board or body which is exempt from income tax in terms of section 10(1)(cA)(i) of the Income Tax Act, which has its sole or principal object the carrying on of any public benefit activity; or
 - c) any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a) of the Income Tax Act, which shall be required to use such assets solely for the purpose of carrying on such public benefit activities as are similar to the objects of the Company.

35. AMENDMENT OF MEMORANDUM OF INCORPORATION

35.1 Every provision of this Mol can be altered or amended in accordance with sections 16(1)(a), 16(1)(c), 17, and 152(6)(b). Therefore, the provisions of section 15(2)(c) shall not apply.

35.2 The Mol may only be altered or amended:

- 35.2.1 In compliance with a court order under Section 16(1)(a) read with Section 16(4);
- 35.2.2 By way of a Special Resolution passed in accordance with Section 16(1)(c);
- 35.2.3 By the Board in accordance with Section 17(1); or
- 35.2.4 By the business rescue practitioner in accordance with Section 152(6)(b).

35.3 The Mol may not be amended by the Board under Section 16(1)(b), nor by any other Alterable Provision of the Companies Act allowing for Mol alteration by the Board, except as provided in Clause 18.3, Clause 35.2, or elsewhere in this Mol.

35.4 The Company shall publish a notice of any alteration made by the Board to correct this Mol under Section 17(1) by posting a notice along with a copy of the amendment or amended Mol on the Company's website. The Company shall also file a notice of the alteration as prescribed by the Companies Act.