

**Companies and Intellectual Property Commission
Republic of South Africa**

MEMORANDUM OF INCORPORATION

of

**THE SOUTH AFRICAN PUBLIC COLLEGES ORGANISATION NPC
(SAPCO)**

Registration number 2012/145401/08

This Memorandum of Incorporation was adopted in accordance with a proposal by the Board by a special resolution taken by the Members at a General Meeting of the Company held at _____ on the _____ Day of _____ 2017 in full substitution of the then existing Memorandum of Incorporation.

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ARTICLE 1:**ADOPTION OF MEMORANDUM OF INCORPORATION**

The South African Public Colleges Organisation was incorporated in 2012 as South African College Principals Organisation as a Non Profit Company without members. The original Memorandum of Incorporation which this Memorandum of Incorporation replaces in its entirety, was adopted on 30 July 2012 by the following incorporators of the South African College Principals Organisation:

Full name of incorporator	Identity number
Justice Fowler Jamangile Mbana	630123 5059 082
Leon Brian Beech	550502 5005 086
Marya Marais	520419 0043 086
Casper Andries Prinsloo	500715 5205 081
Sameul Nceba Sofile	610115 5768 088
Sipho Davie Manese	650107 5294 083
Dan Lucas Nkosi	620708 5885 080
Mary Magdalene Peters	690531 0190 081
Khoromi Ronald Madzhie	520616 5728 088
Sibuyiselo Peter Qwabe	541029 5386 086
Clifford Freddie Barnes	520711 5058 089
Jannie Isaacs	530613 5098 081

This MOI is in a form unique to the company as contemplated in terms of section 13(1)(a)(ii)

This MOI was proposed by the National Executive Committee and adopted by a special resolution taken by the full members corps (National General Council)

ARTICLE 2:**SUPREMACY OF THIS AMENDED MEMORANDUM OF INCORPORATION**

- (a) This Memorandum of Incorporation shall supersede any other document that regulates the conduct of members and their relationship or purports to confer authority to The South African Public Colleges Organisation or any structure falling under or formed by The South African Public Colleges Organisation.
- (b) This Constitution shall bind the National General Council and the National Executive Council and all other structures established by The South African Public Colleges Organisation whether under this Constitution or any document purporting to confer such authority.

ARTICLE 3:**1. DEFINITIONS:**

In this Memorandum of Incorporation, the following words and expressions shall, unless the context otherwise requires, have the meanings assigned to them below and related expressions shall bear corresponding meanings:

1. "act" or "the act" - Means Companies Act No. 71 of 2008, as amended, consolidated or re-enacted from time to time and include all Schedules to the Act and the Regulations;
2. "associates" - Non-voting members;
3. "CET Act" - Means Continued Education and Training Act No. 16 of 2006, as amended from time to time;
4. "compliance provisions" - The provisions of the Income Tax Act No. 58 of 1962 which applies to Public Benefit Organisations from time to time as set out in section 30 or elsewhere in this Act;
5. "connected person" – In relationship to a natural person:
 - (a) any relative; and
 - (b) any trust of which such natural person or such relative is a trustee and/or beneficiary;
6. "Executive Manager" - Refers to and includes any position filled by a salaried employee/s of the Company who answers directly to the NEC and to whom the whole or a portion of the salaried employees of the Company answers no matter the designation/name this person acts under;
7. "general education" - Means the compulsory school attendance phase as contemplated in section 3 of the South African Schools Act No. 84 of 1996;
8. "good standing" - A member is in good standing if all prescribed members and/or administration and/or registration fees have been paid and other administrative requirements have been met;

9. "Majority vote" - 50% + 1 of voting members present;
10. "Memorandum of Incorporation"- Means the Memorandum of Incorporation of the Company as set out in this document;
11. "National Executive Council" - National Executive Council consisting of the board of Directors and other members as defined in this Memorandum of Incorporation;
12. "National General Council" - National General Council consisting of all members represented by the Principal of the member TVET Colleges;
13. "principle"- Chief executive and accounting officer of a public college, and includes a rector of a public college;
14. "record date" -
- (i) Means the date under this Memorandum of Incorporation on which a member has to be in good standing in order to be able to vote at an NGC meeting;
 - (ii) The record date may not be more than 10 business days prior to the date of the meeting;
15. "Rules" and "Rules of the Company"- Means any rules made by the Company necessary or incidental and relating to the governance of the Company in respect to matters not addressed in the Act or Memorandum of Incorporation or not comprehensively addressed in the Memorandum of Incorporation.
16. "The Company" - The South African Public Colleges Organisation NPC also known as SAPCO
17. "vice-principal"- The Person second in command in a Colleges who assists the Principal, may also be a permanent member of staff who is duly appointed to acts as acting vice-principal in the absence of the duly appointed Vice-Principal.

2. ACRONYMS

1. "NEC" - National Executive Council;
2. "NGC" - National General Council;
3. "Mol" - Memorandum of Incorporation;
4. "PBO" - Public Benefit Organisation
5. "SAPCO" - South African Public Colleges Organisation;
6. "TVET college" - A Technical and vocational education and training public College duly established and registered in terms of the Further Education and Training Colleges Act No. 16 of 2006, as amended from time to time;

3. GENERAL

In this Mol:

1. a reference to a "section" by number refers to the corresponding section of the Companies Act;
1. a reference to a "Regulation" by number refers to the corresponding regulation in the Companies Regulations;
2. 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;
3. where any number of days or Business Days are prescribed in this Mol, those days shall be reckoned exclusively of the first and inclusively of the last day or Business Day (as the case may be), unless (in the case of days) the last day falls on a day not being a Business Day, in which event the last day shall be the next succeeding Business Day;
4. 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*;

5. 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;
6. 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 MoI in a similar context bear the same meaning unless excluded by the subject or the context, or unless this MoI provides otherwise;
7. the provisions of this MoI shall be interpreted in the same way as the provisions of the Companies Act are interpreted; and
8. each provision and each sentence and each part of a sentence in this MoI 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 MoI, 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.

ARTICLE 4:

NAME, INCORPORATION, OBJECTS AND POWERS OF THE COMPANY

1. NAME

- a) The name of the Company is The South African Public Colleges Organisation
- b) The short form of the Company's name is SAPCO.

2. INCORPORATION

1. The company is a non-profit company with voting and non-voting members as defined in the Act.

2. The South African Public Colleges Organisation is incorporated in accordance with, and governed by:
 - (a) the unalterable provisions of the Act that are applicable to non-profit companies
 - (b) 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 Mol;
 - (c) the provisions of this Mol; and
 - (d) the provisions of The Rules included herein or promulgated at a later stage.

3. OBJECTS OF THE COMPANY

1. To provide responsive and integrated assistance to principals of Colleges who provide education and training opportunities to students in the post general education phase in order to enable them to realize their full potential and fulfill their mandate in accordance with the CET Act No 16 of 2016 (as amended), Section 29(b) of the Constitution of the Republic of South Africa Act 108 of 1996 or any other legislation that may be applicable from time to time to the said Colleges.
2. In line with the constitution of South Africa, it is the Company's vision of a South Africa in which all the people of South Africa will have opportunities for relevant lifelong learning at the member colleges, thus improving their quality of life and building a prosperous society.
3. The NGC is hereby authorised to, from time to time in the Rules of the Company publish a list of objectives outlining and defining the objects of the Company as the needs of principals and colleges in the post general education phase changes, thereby enabling the Company to pro-actively and in a dynamic manner address issues presenting obstacles to Member Colleges.

4. POWERS OF THE COMPANY

The purposes and powers of the Company are subject to the following restrictions, limitations and qualifications:

1. Use of assets and funds

- (a) The income, property and assets of the Company, however derived, shall be applied solely towards the promotion of its stated objects as set out in this MOI, and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise howsoever, to the Directors of the Company or any member, provided that nothing herein contained shall prevent the payment in good faith of remuneration to any officer or employee of the Company, for any services rendered to, or expenses incurred on behalf of, the Company.
- (b) 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, a Member or a Member of a related or inter-related company, or to a person related to any such Member. This section shall not prohibit a transaction if it:
- 1) is in the ordinary course of the Company's business and for fair value;
 - 2) constitutes an accountable advance to meet:
 - 3) relates to legal expenses in relation to a matter concerning the Company; or
 - 4) constitutes anticipated expenses to be incurred by the person on behalf of the Company;
 - 5) is to defray the person's expenses at the Company's request; or
 - 6) is in terms of an employee benefit scheme generally available to all employees or a specific class of employees.
- (c) The Company is restricted to invest its funds:
- 1) with a financial institution as defined in section 1 of the Financial Institutions Protection of Funds Act No. 28 of 2001; or

- 2) in securities listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act No. 1 of 1985; or
 - 3) in such other prudent investments in financial instruments and assets as the Commissioner for South African Revenue Services may determine after consultation with the Executive Officer of the Financial Services Board and the Director of Non-Profit Organisations,
 - 4) provided that the provisions of this paragraph shall not prohibit the Company from retaining any investment (other than any investment in the form of a business undertaking or trading activity or asset which is used in such business undertaking or trading activity) in the form that it was acquired by way of donation, bequest or inheritance.
- (d) The Company shall not use its resources directly or indirectly to advance or support or oppose any political party.
- (e) The Company may borrow, or raise or secure the payment of money in accordance with the Rules of the Company as to the amount, in such a manner and on such conditions and upon such security as may be approved by the members in terms of the Rules of the Company.
- (f) The Company may draw, make, accept, endorse execute and issue promissory notes, bills of exchange, and or other negotiable or transferable instruments.
- (g) All financial transactions must be conducted by means of a banking account held with a bank created in terms of and subject to the Banks Act No. 94 of 1990.

2. Acquisition and disposal of assets

- (a) The company is allowed to purchase, take on lease, exchange, hire or otherwise acquire any real or personal rights, interests or privileges in and/or to movable and immovable property necessary and/or convenient for the purpose of the Company at a value no more than fair market value.

- (b) The Company is allowed to sell , dispose of, exchange, hire, mortgage, charge, let, deal with or turn to account , any of the property and rights held by it as may from time to time be considered expedient or desirable in the interest of the Company at a value equal to or more than reasonable market value;

3. Activities

- (a) The Company is prohibited from carrying on any business, undertaking or trading activity, other than to the extent that the business, undertaking or trading activity:
 - 1. is integral and directly related to the stated objects of the Company; and
 - 2. is carried out or conducted on a basis substantially the whole of which is directed towards the recovery of costs; and
- (b) The Company may not have a share or other interest in any business, profession or occupation which is carried on by its Members.
- (c) The Company does not knowingly and will not knowingly become a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part II A of Chapter III of the Income Tax Act No. 58 of 1962, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act No. 58 of 1962.

4. Payments by the Company

The Company may not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless how the income or asset was derived, to any person who is or was an incorporator of the Company, or who is or was a Member or Director, of the Company, except:

- a) as reasonable remuneration for goods delivered or services rendered to, or at the direction of the Company; or

- b) payment of, or reimbursement for, expenses incurred to advance a stated object of the Company, or
- c) as a payment of an amount due and payable by the Company in terms of a bona fide agreement between the Company and that person or another; or
- d) as a 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
- e) in respect of any legal obligation binding on the Company.

5. Funding

A substantial part of the Company's funding shall be derived from its Members or from an appropriation by the government of the Republic of South Africa in the national, provincial or local sphere.

6. Delegation of Powers

- a) The Company, by way of the NGC may delegate some of its powers to the NEC or any committee or committees constituted in terms of a resolution by the NGC;
- b) The delegation has to be in accordance with the rules;
- c) The NEC has the power to at all times appoint committees to assist them in exercising the powers delegated to them by the NGC subject to the rules of the company;
- d) Any committee constituted in terms of the MoI and/or rules shall consist of no less than 3 members of which one member must be member of the NEC;
- e) Paragraph d) shall not apply to the Provincial / Regional structures of the Company.

7. Income Tax Act Compliance Provisions

If and for as long as the Company is approved by the Commissioner for South African Revenue Services as a PBO:

- (1) The Company must comply with all the compliance provisions ;
- (2) All the powers of the Company, and the powers and discretions of the NEC and NGC will be limited to the extent set out in the compliance provisions;
- (3) The compliance provisions will override any contradictory or conflicting provision of this Memorandum of Incorporation or the Rules.

8. General

- a) The Company may apply or petition for, or promote or oppose any legislation or other measures affecting any matters concerning or connected to the objects of the Company.
- b) The Company may do all of the foregoing and such other lawful things as may be incidental or conducive to the attainment, promotion and/or carrying out of the foregoing objects.

ARTICLE 5:

MEMBERSHIP

1. NUMBER OF MEMBERS UNLIMITED

For the purpose of registration and in general unless and until otherwise lawfully determined, the number of members of the Company is to be taken as being unlimited.

2. DEFINITION OF MEMBERS

The members of the Company shall be those persons who are admitted to a class of membership of the Company in accordance with this MoI and the Rules and the names and addresses of such members shall be entered in the Register of Members.

3. VOTING RIGHTS OF MEMBERS

1. The Company shall have two classes of members, being voting and non-voting members or Associates.
2. Each of the voting members shall have an equal vote in any matter to be decided by the members of the Company.

4. CLASSES OF MEMBERS

1. VOTING MEMBER

1. Requirements to become a voting member:

1. The voting membership of the Company shall be limited to Public TVET Colleges as represented by the Principal of such Public TVET College and subject to approval by the NGC.
2. Voting Members are:
 - (a) TVET Colleges who were found to have satisfied the requirements determined by this MoI for membership and approved by the NGC ;
 - (b) and are in good standing;
 - (c) whose names were duly enrolled and remain so enrolled as Members on the Register.

2. NON-VOTING MEMBERS

1. Requirements to become a non-voting member or Associate:

1. The requirements for non-voting membership of the Company shall be determined in the rules of the Company.
2. Non- Voting Members are any person or organisation who:
 - (a) wish to support the purpose of the Company;
 - (b) were found to have satisfied the requirements determined by this Mol and the Company Rules;
 - (c) whose membership has been approved by the NGC;
 - (d) whose names were duly enrolled and remain so enrolled as Associates on the Register.

2. Rights of non-voting members/ associates:

Non-voting members:

- (a) Shall be known as Associates;
- (b) Shall be bound by the Mol and the Rules of the Company as may from time to time be approved by the NGC;
- (c) May not vote;
- (d) May not hold office;
- (e) May not nominate Directors;
- (f) May serve on any committee subject to the Rules;

5. MEMBERSHIP AND MEMBERSHIP FEES:

1. Determination of fees payable by members:

- (a) Membership Fees for members and associates shall annually be considered and calculated by the NEC in accordance with a budget, the Rules may make provision for factors to be considered when determining the fees.
- (b) The Membership Fees as contemplated in paragraph (a) shall be presented to the NGC for approval by an ordinary majority.

2. Requirements for enrolment on the Register and Membership:

Colleges qualifying as members or associates of the Company shall only be enrolled on the Register of members after:

- (a) paying such registration fee, as may from time to time be prescribed by the NGC;
- (b) signing such declaration, as may from time to time be prescribed by the NGC; and
- (c) signing such form of application and agreement to be bound by the MoI and the Rules of the Company as may from time to time be prescribed by the NGC.

3. Cessation of membership

- 1. A member and/or associate shall immediately cease to be a member, under the following circumstances:
 - (a) if such member is no longer A Public TVET College;
 - (c) if by notice in writing to the Company such member resigns; or
 - (c) if by special resolution of the NGC such member's name is in terms of the Rules removed from the Register.

2. Members and associates who cease to be members in accordance with sub paragraphs 1.(a) to (c) shall cease, both directly and indirectly, expressly or impliedly, to hold themselves out as being members.
3. Members who cease to be members shall remain liable for all sums that may at the date of cessation of its membership be due and payable to the Company and shall not have any claim against the Company or its officers, its property or its funds.
4. Should any person disregard the provisions of sub -paragraph 2 the Company shall be entitled to apply to any court of competent jurisdiction for an appropriate interdict against such person, together with a prayer regarding costs of the proceedings. Such costs to be on the scale as between attorney and own client.
4. Payment of prescribed fees and rights and privileges of members
 - a) No registration fee shall be payable by any Member College whose annual subscriptions are paid up on date of acceptance of this MoI.
 - b) A member's right to vote at any NEC meeting shall be suspended should such member fail to pay all fees payable as may be determined by the NGC from time to time by the record date, as the member will be deemed not to be a member enrolled in the register of the Company until such time that the prescribed annual and/or other fees and penalties have been paid.
 - c) No fees shall be waived unless special circumstances are present to the satisfaction of the NGC.
 - d) The Rules may provide for penalties payable in respect to arrear fees.
5. Register of Members
 1. The Company is to maintain a Register, in the form of an electronic database, wherein shall be entered:
 - a) the names of members of the Company;
 - b) year of first attaining membership;

- c) class of membership;
 - d) the e-mail address and /or fax number and/or physical address the member chose as its address for the receiving of notices in terms of the Act and/or MoI and/or Rules;
 - e) the physical address published by a member in the Government Gazette in terms of the applicable legislation will be used as *domicilium citandi et executandi* for all legal notices.
 - f) and any additional information as may be determined from time to time by the NEC and included in the Company Rules.
2. The Company shall regularly update the Register and remove the names of colleges who ceased to be members in accordance with the MoI and the Rules of the Company.
6. Removal from Register of Members under extraordinary circumstances
- 1. Subject to the MoI and the Rules, the NGC shall have the power to remove the name of any member or associate from the Register of Members, provided that no members name shall be removed from the Register of Members except pursuant to a special resolution which complies with the following prerequisites:
 - (a) a quorum as defined in Article 6(12) hereof shall be present at the NGC meeting;
 - (b) the resolution must be passed by a majority of at least 70 % of the Members present;
 - (c) no less than 30 (Thirty) calendar days' written notice of the NGC meeting and its purposes shall be sent to the member whose name the NGC proposes to remove from the Register and such member shall be given an opportunity to be heard at the NGC meeting; and
 - (d) the resolution shall only be adopted after the representations (if any) made by the member referred to in this paragraph have been duly considered.

2. A member is entitled to a revision of a decision so taken by the NGC. The process relating to such a revision shall be in accordance with the Rules of the Company.
3. All membership fees paid up to date of removal of the member from the Register of Members are non-refundable;
4. All outstanding membership fees as at date of removal from the Register of Members will be deemed due and immediately payable;

ARTICLE 6:

MEMBERS MEETINGS - NATIONAL GENERAL COUNCIL (NGC)

1. Constitution of THE NGC

The NGC is constituted of all members represented by the Principal of each member.

2. Powers of the NGC

- (a) The supreme control of the Company is vested in the NGC who may confirm or repudiate any decision or resolution made on behalf of the Company by the NEC, any committee or Office Bearer;
- (b) The business of the NGC meeting shall be to adopt general and specific policy measures by means of resolutions as set out herein and to consider and / or decide on the following:
 - 1) Approve amendments to the MoI, registration of the Company and the Rules of the Company;
 - 2) Approve and/or ratify reports, resolutions and/or decisions by the NEC and/or Office Bearers Committee and/or other committees;

- 3) At least once a year :
 - 3.1 consider and approve the Auditor's financial statements
 - 3.2 consider and approve the Director's report
 - 3.3 appoint an auditor for the ensuing financial year
 - 4) Approval of budgets;
 - 5) To receive a report as to the election or appointment (if any) of any Director or Office Bearer;
 - 6) Election of the Directors and Office Bearers;
 - 7) To consider any motion proposed by the NEC or any member as allowed for by the Mol or Company Rules;
 - 8) To consider and approve or veto Rules made and/or proposed by the NEC in terms of Article 7 hereof and the Rules;
 - 9) Any matter deemed to be in the interest of the Company;
 - 10) To consider and address any other business which ought to be transacted at a NGC meeting in terms of the Mol or Company Rules.
- (c) The NGC through the NEC shall have jurisdiction over the regional structures and other sub-structures.

3. Meetings:

1. The Company shall hold no less than two NGC meetings per calendar year, of which one will be an Annual General Meeting.
2. Meetings are to be called by the NEC in the alternative any Office Bearer or any Executive Manager of the Company authorised thereto by the NEC.

- 3 Section 60 of the Act is not applicable to the Company therefore the passing of resolutions by the NGC may not be passed otherwise than at a NGC meeting.
4. In terms of Section 59 of the Act the Company hereby set a record date and determine that all Colleges that qualify for membership in terms of this Mol on the 10th business day before the date of any meeting will be entitled to the rights as stipulated in Section 59(1) of the Act.

4. Meetings Demanded by Members

1. (a) The NEC in the alternative any Office Bearer or any Executive Manager of the Company authorised thereto by the NEC. shall call a members meeting if one or more written and signed demands for such meeting are delivered to Company and-
 - (b) each such demand shall describe the specific purpose for which the meeting is proposed; and
 - (c) in aggregate, demands for substantially the same purpose are made and signed by the members, at the earliest time specified in any of those demands , of at least 10% (ten percent) of the Members who are entitled to exercise their voting rights in relation to the matter proposed to be considered at the meeting. .
 - (d) the Company or any member, may apply to a court for an order setting aside a demand made in terms of sub paragraph (a) on the grounds that the demand is frivolous, calls for a meeting for no other purpose than to reconsider a matter that has already been decided by the members, or is otherwise vexatious.
 - (e) At any time before the start of the meeting contemplated in sub paragraph (a):
 1. a member who submitted a demand for that meeting may withdraw that demand; and

2. the Company must cancel the meeting if, as a result of one or more demands being withdrawn, the remaining members continuing to demand the meeting, fall below the minimum 10% (ten percent) of members required to call a meeting.

- (f) If the Company fails to convene a meeting demanded in accordance with sub paragraph (a) a member may apply to a court for an order requiring the Company to convene a meeting on a date, and subject to any terms, that the court considers appropriate in the circumstances.

5. Extraordinary meetings

- (a) The NEC or any Executive Manager of the Company authorised by the NEC shall be entitled to, whenever it is deemed necessary, convene an extraordinary NGC meeting, to receive and to consider any matter which will not or cannot be received and considered at an ordinary meeting.
- (c) In the event that the Company is unable to call a meeting because it has no Directors or because of all its Directors being incapacitated then the Company authorises any Member to convene a meeting in these circumstances.

6. Location of NGC meetings

Subject to the Rules, all NGC meetings shall be held at such place or places as the NEC shall from time to time appoint subject thereto that all meetings will be held within the borders of the Republic of South Africa.

7. Notice of meetings

1. The NEC or any such other person as may be authorised by the NEC must deliver a notice of each meeting in the prescribed manner and form to all of the members, no less than 15 business days before the meeting is to begin.

2. A notice of a members meeting must be in writing, and must include-
- (a) the signature of or have printed at the foot thereof, the name of the Company President;
 - (b) in the case of a meeting convened by requisition of members in accordance with the MoI or Rules, the signature of or have printed at the foot thereof, the names of members demanding the meeting;
 - (c) the date, time, place for the meeting and the record date;
 - (d) the general purpose of the meeting and/or any specific purpose if applicable;
 - (e) a copy of any proposed resolution of which the Company has received notice of and which is to be considered at the meeting, and a notice of the percentage of voting rights that will be required for that resolution to be adopted;
 - (f) in the case of an annual general meeting:
 - (i) a copy of the annual reports by the NEC and the Office Bearers Committee;
 - (ii) a summarised form of the financial statements to be presented;
 - (iii) the auditors' report;
 - (iv) and directions for obtaining a complete copy of the annual financial statements for the preceding financial year.
 - (g) a reasonably prominent statement that a member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend, participate in and vote at the meeting in the place of the principal of that college, that a proxy need be a Vice-Principal of such college and failing the availability of the Vice-Principal any permanent member of staff, and that at the meeting participants may be required to provide satisfactory identification.

8. Manner of Service

- (a) A notice may be given by the NEC to any member in terms of the Rules of the Company either electronically by e-mail and/or fax or personally or by sending it through the post in a prepaid letter, envelope, or wrapper, addressed to such member at its e-mail address/es and/or fax number and/or physical address and/or postal address as recorded in the members register.
- (b) Any notice sent by post shall be deemed to have been delivered 10 working days after posting.
- (c) Where a given number of days' notice, or a notice extending over any other period is required to be given, the day of service or delivery shall not be counted in such number of days or other period.

9. Appointment of proxy

- (a) At any time, a member is allowed to appoint a proxy to participate in, and speak and vote at a NGC meeting on behalf of the member or give or withhold written consent on behalf of the member to a decision.
- (b) The Company may promulgate Rules with regards to the appointment of a proxy and the prescribed document to be used when appointing a proxy.
- (c) A proxy appointment must be in writing, dated and signed by the Principal and remains valid for such period expressly set out in the appointment by the Principal: unless it is revoked in a manner contemplated in this MoI or the Rules of the Company.
- (d) The instrument appointing a proxy shall be in the form included in the rules of the Company or as near thereto as circumstances permit.
- (e) A member may not appoint two or more persons jointly as proxies.
- (f) A Proxy may not delegate the proxy's authority to act on behalf of the member to any other person than the chairperson of the meeting;

- (g) A copy of the instrument appointing a proxy must be delivered to the chairperson or the company secretary before the meeting commences and before the proxy exercises any rights of the member at a members meeting.
- (h) If the instrument appointing a proxy has been delivered to the Company in accordance with the rules prior to the calling of the next meeting/s and as long as that appointment remains in effect, any notice that is required by the Act or the MoI to be delivered by the Company to the member must be delivered by the Company to the member and the proxy, the member is to pay any reasonable fee charged by the Company for doing so.
- (i) A proxy is entitled to exercise, or abstain from exercising, any voting right of the member in accordance with direction given by the Member, except to the extent that the MoI provides otherwise.
- (j) A Proxy may vote for office bearers.

10. Chairperson of NGC meeting

- (a) The President of the Company, or in his/her absence or if he/she shall be unwilling to act such Vice-President who is present and willing to act and designated by the meeting, shall take the chair at every NGC meeting.
- (b) If neither the President of the Company nor a Vice-President is present or willing to act as the chair of a members meeting within fifteen minutes after the time appointed for the commencement of such meeting, the remaining Directors personally present shall choose another Director to take the chair at the NGC meeting.
- (c) If no Director is present or willing to act as the chair of a NGC meeting within fifteen minutes after the time appointed for the commencement of such meeting, the Members personally present shall choose another Member by majority vote to take the chair at the members meeting.
- (d) The Chairperson of a NGC meeting may appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorney received and for counting the votes at the meeting

11. Voting at NGC meetings

- (a) At a meeting of the NGC, voting may be exercised by the voting members either by show of hands or by polling.
- (b) Any person who is present at the meeting, whether as a voting member or as proxy for a voting member, has one vote irrespective of whether voting is by show of hands or polling.
- (c) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business, other than the question on which a poll has been demanded.
- (d) Any poll duly demanded on the election of a chairperson of a meeting or on any question of adjournment shall be taken at the meeting without adjournment.
- (e) In the case of an equality of votes, both on a show of hands or on a poll, the chairperson of the particular NGC meeting shall have a casting vote in addition to the vote or votes to which the chairperson may be entitled as a voting member.
- (f) A declaration by the chairperson that a resolution has been passed or not been passed, or passed by a particular majority or not passed by a particular majority, and an entry to that effect in the minute book of the Company, shall be conclusive evidence of the vote, without proof of the number or proportion of the votes recorded in favour of or against a resolution.

12. Quorum at ordinary and extraordinary NGC meetings

- (a) A NGC meeting may not begin until sufficient persons (in person or by proxy) are present at the meeting to exercise, in aggregate, at least 50 % + 1 of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting and a matter to be decided at the meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise, in aggregate, at least 50% +1 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.

- (b) If within one hour after the appointed time for a meeting to begin, the requirements of Article 5 (12)(a) for that meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, for a period in accordance with Rules of the Company.

- (c) If within one hour after the appointed time for consideration of a particular matter to begin the quorum have not been satisfied the consideration of that particular matter is postponed without motion, vote or further notice, for a period in accordance with the Rules of the Company:
 - i) if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
 - ii) if there is no other business on the agenda of the meeting, the meeting is postponed without motion, vote or further notice, for a period in accordance with Rules of the Company.

- (d) The person intended to preside at a meeting that cannot begin due to the operation of Article 5 (12)(a), may extend the one-hour limit allowed in Article 5 (12)(b) for a reasonable period on the grounds that:
 - i) exceptional circumstances affecting weather or transportation have generally impeded or are generally impeding the ability of members to be present at the meeting; or
 - ii) one or more particular members, having been delayed, have communicated an intention to attend the meeting, and those members, together with others in attendance, would satisfy the requirements of Article 5 (12)(a).

- (e) The Company shall not be required to give further notice of a meeting that is postponed or adjourned in terms of Article 5 (12)(b) unless the location for the meeting is different from the location of the adjourned meeting or a location is announced at the time of adjournment, in the case of an adjourned meeting.

- (f) If, at the time appointed in terms of this paragraph for a postponed meeting to begin or for an adjourned meeting to resume, the requirements of Article 5(12)(a) have not been satisfied, the members present in person or by proxy will be deemed to constitute a quorum as determined by section 64(8) of the Act.
- (g) After a quorum has been established for a postponed or adjourned meeting, or for a matter to be considered at a meeting, the meeting may continue, or the matter may be considered, so long as at least one voting member is present at the meeting.
- (h) Any members meeting, or the consideration of any matter being debated at the meeting, may be adjourned from time to time without further notice (to a fixed time and place or until further notice) on a motion supported by persons entitled to exercise, in aggregate, a majority of the voting rights held by all of the persons who are present at the meeting at the time and that are entitled to be exercised on at least one matter remaining on the agenda of the meeting, or on the matter under debate, as the case may be.
- (i) The Rules of the Company may amend from time to time the minimum and maximum periods of adjournment of meetings, failing to do so there will be no limitation on adjournment of meetings.

13. Record Keeping:

1. The Company shall keep minutes of all NGC meetings, and any of its committees, and include in the minutes every resolution adopted by the NGC.
2. Any minutes of a NGC meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next NGC meeting, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

14. Members resolutions

1. Types of members resolutions

Every resolution of members is either an ordinary resolution or a special resolution.

2. Proposal and form of resolutions

- (a) The NEC or the Board may propose any resolution to be considered by the members.
- (b) Any two members may propose a resolution concerning any matter in respect of which they are each entitled to exercise voting rights and when proposing a resolution, may require that the resolution be submitted to members for consideration:
 - i) at a meeting demanded in terms of the MoI or the Rules of the Company; or
 - ii) at the next members meeting.
- (c) A proposed resolution must be expressed with sufficient clarity and specificity and accompanied by sufficient information or explanatory material to enable a member who is entitled to vote on the resolution to determine whether to participate in the meeting and to seek to influence the outcome of the vote on the resolution.
- (d) At any time before the start of the meeting at which a resolution will be considered, a member, or Director who believes that the form of the resolution does not satisfy the requirements of the MoI or the Rules of the Company, may seek leave to apply to a court for an order restraining the Company from putting the proposed resolution to a vote until the requirements of the MoI or the Rules of the Company have been satisfied and requiring the Company, or the members who proposed the resolution, as the case may be, to take appropriate steps to alter the resolution so that it satisfies the requirements of the MoI and the Rules of the Company and compensate the applicant for costs of the proceedings, if successful.
- (e) Once a resolution has been approved, it may not be challenged or impugned by any person in any forum on the grounds that it did not satisfy the requirements of the MoI or the Rules of the Company.

3. Ordinary resolutions

1. An ordinary resolution is required when neither the MoI nor the Rules make provision for any other resolution.
2. For an ordinary resolution to be approved by members, it must be supported by at least 70% of the voting rights exercised on the resolution.

4. Special resolutions

1. For a special resolution to be approved by members, it must be supported by at least 80% of the voting rights exercised on the resolution.
2. A special resolution is required for the purposes set out in section 65 (11) of the Act:
 - (a) Amending the Company's MoI if such a resolution is proposed by the NEC of the Company or Members entitled to exercise at least 10% of the voting rights that may be exercised on such a resolution and is adopted at a Members' meeting (Section 16(1)(c));
 - (b) Approve the voluntary winding up of the Company, as contemplated in Section 80;
 - (c) Approve any proposed fundamental transaction, to the extent required by Part A of Chapter 5.
3. A special resolution is further required in the following instances:
 - (a) Alienation of the Company's Immovable Property;
 - (b) Approving the creation and/or amendment of Rules for the Company;
 - (c) If prescribed by the Company Rules.

ARTICLE 7:

AMENDING THE MOI AND RULES OF THE COMPANY

- (1) *This MoI may be altered or amended in the manner set out in section 16 and 17 of the Act, subject to the following further provisions:***

- (a) Any amendment/s are to be proposed by the NEC or by 10 % of members holding voting rights;**
- (b) A special resolution to amend the Mol is to be approved by the NGC, such resolution must be supported by at least 80% of all members holding voting rights and who are entitled to exercise its voting rights in respect of the special resolution to be adopted present at a meeting for purposes of adopting a special resolution to amend the Mol; and**
- (c) Quorum - a NGC meeting for purposes of adopting a special resolution to amend the Mol may not begin until at least 80 % of all the members holding voting rights and who are entitled to exercise its voting rights in respect of the special resolution to be adopted is present (in person or by proxy); and**
- (d) The special resolution to amend the Mol shall comply with the provisions of the Act and the Mol applicable to members meetings and the adoption of special resolutions.**
- (e) A copy of the amended Mol is to be submitted to the Commissioner of Revenue Services as soon as it has been affected in order to comply with the compliance provisions.**
- 2) The authority of the NEC to make or amend any Rule/s for the Company as contemplated in section 15(3) to (5) of the Act, is limited or restricted to the extent provided for below:**
- 1. Save as far as determined or provided by the Act or by this Mol:**
- (a) the constitution and governance of the Company, obligations of the members and the appointment, duties, powers and privileges all Councils, committees and subcommittees of the Company , shall be such as may from time to time be prescribed or determined by or in accordance with the Rules; and**
- (b) the Rules may from time to time be added to, amended or altered or repealed by the NEC in the manner prescribed in the Rules, provided that no Rule shall be made under this power:**

(i) which would amount to an addition to or alteration of this Mol as could only legally be made by special resolution;

and

(ii) without the prior written proposal by the Office Bearers;

and

(iii) Quorum - a NEC meeting for the purposes of making or amending the rules may not begin until sufficient persons are present at the meeting to exercise, at least 80 % of all the voting rights that are entitled to be exercised in respect of the special resolution to be adopted.

- 2. The NEC must publish any Rules made in terms of section 15 (3) to (5) of the Act by delivering a copy of those rules to each member in terms of the Rules of the Company.*
- 3. The NEC must publish any proposed alterations to the Mol and Rules to be made in terms of Section 17(1) of the Act by delivering a copy of those rules to each member in terms of the Rules of the Company.*
- 4. The NGC can veto any rule at the first NGC meeting following the publication of a Rule.*

ARTICLE 8:

NATIONAL EXECUTIVE COMMITTEE (NEC)

1. NEC is constituted of:

the elected Directors of the Company consisting of:

- (a) the elected Office Bearers of the Company;
- (b) the chairpersons of the Regional Executive Committees.

2. Powers of the NEC

- (a) The business of the Company shall be managed and supervised by the NEC in accordance with the stated objects of the Company and as envisioned in terms of section 66(1). The NEC may exercise all powers of the Company which are not excluded by a statute or this MOI.
- (b) Take such actions on behalf of, and in the name of the Company, as it considers necessary, and as cannot, in the opinion of the President be delayed until the next NGC Meeting.
- (c) To confirm nomination of the Company's members for representation in committees of the Department of Higher Education and Training, or their successors in title, and any other committee when deemed necessary as deployed by the Office Bearers Committee.
- (d) The NEC approves the staff establishment and conditions of service of all Company employees and appoint the executive Manager.
- (e) The NEC is accountable to the NGC.
- (f) ***The NEC is to make and/or amend Rules in terms of Article 7 of this Mol and the Rules.***
- (g) The NEC will approve negotiations and co-operation with other associations, organisations etc. as recommended by the Office Bearers Committee and this must be ratified by the NGC.
- (h) Present reports and decisions/resolutions taken by the NEC to the NGC-for ratification.
- (i) Ensures the election of provincial/regional Office Bearers through the Office Bearers Committee.
- (j) Present the budget to the NGC through the Treasurer.

3. Meetings of the NEC

- (a) The NEC may in accordance with the Rules authorise a director or an Executive Manager who:
 - (i) may call a meeting of the NEC at any time; and
 - (ii) must call a meeting if required by 25% of the directors of the Company.

- (b) The NEC must meet at least four times per financial year for the dispatch of the business of the Company.

- (c) The conduct of meetings shall generally be governed in terms of section 73 of the Act;

- (d) Notwithstanding the aforementioned, the NEC may regulate their meeting as they deem fit.

- (e) A member of the NEC while absent from the Republic of South Africa shall, during such absence, be entitled to notice of meetings.

- (f) Notice of a NEC meeting must be given to each NEC member in writing, in accordance with the rules, not less than 10 business days prior to the meeting.

- (g) Where the authorised Director or Executive Manager has failed to give the required notice of an NEC meeting, or there was a defect in the giving of the notice, such meeting may proceed, provided that all of the members of the NEC:
 - (i) acknowledge actual receipt of the notice; or
 - (ii) are present at the meeting; or
 - (iii) waive notice of the meeting.

- (h) A NEC meeting may be conducted by electronic communication, or one or more NEC members may participate in a meeting by electronic communication, so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.
- (i) The quorum necessary for the transaction of the business of the NEC shall at all times be at least 50% + 1 of the NEC members.
- (j) Each NEC member shall be entitled to one vote in regard to all business brought before the NEC.
- (k) The chairperson of the NEC meeting shall have a casting vote in the event of a tie.
- (l) Unless otherwise provided in this MOI or in the Rules of the Company, a majority of the votes cast on a resolution is sufficient to approve that resolution.
- (m) A decision that could be voted on at a NEC meeting may instead be adopted by written consent of the required number of NEC members, given in person, or by electronic communication, provided that the ballot process is in accordance with the MOI and the Rules of the Company. A decision made in this manner is of the same effect as if it had been approved by voting at a meeting.
- (n) Resolutions adopted by the NEC:
 - (i) must be dated and sequentially numbered; and
 - (ii) are effective as of the date of the resolution, unless the resolution states otherwise.
- (o) The Company shall keep minutes of all NEC meetings, and any of its committees, and include in the minutes:
 - (i) any declaration of personal financial interest given by notice or made by a Director as required by section 75; and
 - (ii) every resolution adopted by the NEC.
- (p) Any minutes of a NEC meeting, or a resolutions, signed by the chairperson of the meeting, or by the chairperson of the next NEC meeting, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

4. Directors of the Company

1. The Company shall have a minimum of nine Directors;
2. The maximum number of Directors is to be determined in the Rules of the Company.
3. No Director may be a 'connected person' (as defined in the Income Tax Act No. 85 of 1962) in relation to any other Director.
4. No single Director shall directly or indirectly control the decision making powers relating to the Company.
5. Every Director must:
 - (i) satisfy the qualification and eligibility requirements set out in section 69 of the Act to become and/or remain a Director; and
 - (ii) be a Principal of a Member of the Company.

5. Appointment of Directors:

- (a) Directors are to be appointed by an NGC meeting.
- (b) Where a vacancy on the NEC arises, each member of the Company shall be entitled but not obliged to nominate in writing one Director to fill such vacancy.
- (c) Once the nominations have been made by the Members, the Members shall be entitled to vote on the nominations by way of a poll.
- (d) Each member shall have one vote for each vacancy.
- (e) The nominees with the most votes will fill the vacancy/ies.
- (f) The quorum to appoint directors at an NGC meeting is 50% + 1.

- (g) Where a vacancy on the NEC arises, and the NEC by an ordinary decision decides that the vacancy has to be filled prior to the next NGC meeting:
- (i) Members of the Company shall be entitled to ratify the decision or to nominate alternative members to fill such vacancy at the next NGC meeting;
 - (ii) Once the nominations have been made by the Members, the Members shall be entitled to vote on the nominations by way of a poll;
 - (iii) Nominations and voting in this instance will be in accordance with the MoI and The Rules pertaining to the election of Directors.
- (h) At least one third of the Directors who have served on the NEC for more than 2 (two) years, must resign annually:
- (i) Any such Director is eligible for re-election;
 - (ii) All resignations in terms of this section has to be tendered at the start of the first NGC meeting following directly on the anniversary of the 2(two) years;
 - (iii) All resignations and subsequent re-elections or elections of new Directors are to take place at the same NGC.

5. Vacation of office

The office of the Director shall be vacated if such Director:

- (a) is a Principal of a Member and the Member who appointed him/her, ceases to be a Member of the Company;
- (b) dies;
- (c) resigns;

- (d) becomes incapacitated to the extent that the person is unable to perform the functions of a Director, and is unlikely to regain that capacity within a reasonable time;
- (e) ceases to be a representative of the Member which appointed him/her;
- (f) is declared delinquent by a court, or placed on probation under conditions that are inconsistent with continuing to be a Director of the Company;
- (g) is absent from meetings of Directors for more than six months without the permission of the NEC;
- (h) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare his interest and the nature thereof in the manner contemplated in the Mol or Rules;
- (i) becomes ineligible or disqualified in terms of section 69 of the Act; or
- (j) is removed in terms of section 71 of the Act or by a court of law.

7. Authority of Directors in the event of vacancies

The Directors may act notwithstanding any vacancy on the NEC, provided that for so long as their number is reduced below the minimum number of Directors demanded in terms of this Mol , then the remaining Directors may act for the purpose of increasing the number of Directors to that number in terms of this Mol, but for no other purpose.

8. Chairperson at meetings of the Company:

- (a) The President shall chair all meetings of the Company.
- (b) In the absence of the President or in the event that the President cannot chair a meeting the Deputy President shall chair the meeting.
- (c) In the absence of the President and Deputy President and in the event that the President and Deputy President cannot chair a meeting the Office Bearers will chose the Chairperson to any meeting by ordinary majority.

9. Office Bearers of the Company:

1. The Office Bearers Committee shall consist of:
 - a. President
 - b. Deputy President
 - c. Secretary General
 - d. Deputy Secretary General
 - e. Treasurer General
2. The Office Bearers term is two years and they will be elected / re-elected annually at the Annual General Meeting of the NGC.
3. Each Office Bearer may not serve more than two consecutive terms in his/her Specific position.
4. An Office Bearer may not serve more than 3 consecutive terms on the Office Bearers Committee.

9. **Meetings of the Office Bearers Committee:**

1. The Office Bearers shall convene no less than 8 meetings per financial year.
2. Notice of a meeting must be deliver to each Office Bearer in the manner prescribed in the Rules, not less than 10 (ten) business days before the meeting is to begin.
3. The agenda for the meeting is to be attached to the notice contemplated in paragraph (b) above.
4. In the event that an Office Bearer is not able to attend a meeting, he / she is not allowed to appoint and/or delegate a representative to attend such meeting on his/her behalf.

11. Powers and duties of Office Bearers

1. Oversee the management and administration of the Company. / Supervise the management and administration of the organisation subject to any delegation allowed for in terms of the Rules.
2. Report to the NEC and NGC with regards to the management and administration of the organisation.
3. Appoints permanent staff except the Executive Director who is appointed by the NEC;
4. All staff appointments are subject to ratification by the NEC.
5. To approve conditions of service of staff except that of the Executive Manager.
6. Recommends projects to the NEC for approval.
7. Represents the company at strategic forums as requested by the NEC or NGC OR as determined in the Rules.

12. Office Bearers Committee:

1. President:

(a) The President shall chair all meetings of the National Executive Committee and General Council as well as the Office Bearers' Committee and in his / or her absence the Deputy President shall act as President.

(b) The President shall exercise a casting vote in the event of a tie.

(c) It shall be the duty of the President to:

- i) Preside over all meetings of the Company including the Annual General meeting;
- ii) Decide all questions of order, precedence of items or agenda and procedure;
- iii) Convene through the Secretary General all meetings of the Company;

- iv) As He/she is one of the signatories of the bank accounts he/she approves all payments;
- v) He/she is the spokesperson of the Company;
- vi) During the first month after the Annual General Meeting, with the assistance of the Secretary General, compiles a list of all meetings of the Company;
- vii) Be co-signatory with the Treasurer General of all bank accounts and withdrawals from anyplace of financial deposit or delegate this function but stay accountable;
- viii) Have a casting vote at any meeting of the Company where he/she is President and a deliberative vote only at meetings where he/she does not preside.

2. Deputy President

- (a) The Deputy President shall assist the President and shall in the absence or inability of the President take over all powers and duties of the President.
- (b) Shall perform any duty assigned by the Office Bearers Committee and/ or the NEC.

3. Secretary General

It shall be the duty of the Secretary General to:

- (a) Keep correct minutes of the Company;
- (b) Handle all correspondence of the Company;
- (c) Keep a record of resolutions by Annual General Council and National Executive Committee;
- (d) File reports of the representatives of the Company in other bodies;
- (e) Send copies of minutes of the meetings to all members at least seven (7) days prior to the next meeting;
- (f) Carry out any other duties delegated to him/her by or with approval of the NGC;

(g) Presents the NEC report(s) to NGC and Annual General Meetings;

(h) Shall be one of the signatories of the Company's bank account.

4. The Deputy Secretary General:

The Deputy Secretary General shall:

- (a) assist the Secretary General and shall in the absence or inability of the Secretary General take over all powers and duties of the Secretary General;
- (b) perform any duty assigned by Office Bearers Committee and/ or the NEC.

5. The Treasurer General

The Treasurer General shall:

- (a) Receive and bank all monies of the Company;
- (b) Keep records of monies received by him/her, and keep full records of assets and liabilities of the Company;
- (c) Keep accounting records supported by vouchers which must be capable of audited by a recognised auditor;
- (d) Present when required, financial statements at NEC, NGC and other meetings of the Company;
- (e) Draw up and present a Budget to the Annual General Council meeting;
- (f) Co- sign all cheques and withdrawals from any place of financial deposit or delegate such authority, but remaining accountable.

13. Regional structures:

- (a) The Regional structures shall be constituted and governed in terms of the Rules of the Company.

- (b) The Chairpersons of the Regional structures:
- i. shall be appointed in terms of the Rules of the Company;
 - ii. Shall become directors of the Company.

**ARTICLE 9:
PERSONAL FINANCIAL INTERESTS**

If a Director or Executive Manager has a personal financial interest or knows that a related / connected person (as defined in the Income Tax Act No.) has such an interest he must disclose in advance, in writing, to the NEC the nature and extent of that interest. This disclosure must comply with the requirements of the Act. If the personal financial interest (including that of a related / connected person as defined in the Income Tax Act), arises after the matter has been approved by the NEC then the Director or prescribed officer concerned must promptly, after the interest arises, disclose same to the NEC in accordance with section 75 of the Act.

**ARTICLE 10:
INDEMNIFICATION**

1. Subject to a resolution of the NEC, the Company may:
 - (a) advance expenses to a Director to defend litigation in any proceedings arising out of that Director's service to the Company; and
 - (b) directly or indirectly indemnify a Director for expenses contemplated in paragraph (a) irrespective of whether it has advanced those expenses, if the proceedings are abandoned or exculpate the Director, or arise in respect of any liability for which the Company may indemnify the Director as provided in terms of sections 78(5) and (6) of the Act;
 - (c) subject to the limitations imposed by section 78(6), the Company may indemnify a Director, committee member or officer of the Company.

2. The Company may purchase insurance to protect:
 - (a) a Director against any liability or expenses for which the Company is permitted to indemnify a Director in accordance with Article 10(1)(a) – (c); and/or
 - (b) the Company against any contingency including, but not limited to:
 - i) any expenses that the Company is permitted to advance in accordance with Article 10(1)(a) – (c);
 - ii) any liability for which the Company is permitted to indemnify a Director in accordance with Article 10(1)(a) – (c).
3. 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 Article.

**ARTICLE 11:
REMUNERATION**

1. The Directors of the Company shall not be entitled to any remuneration in consideration for or respect of their services as directors except as contemplated in the Rules of the Company;
2. Where a Director renders additional services to the Company, other than his/her services as a Director, such Director may be remunerated by the Company for such services, provided that such remuneration is fair and reasonable, and has been approved by NEC resolution following the procedure set out in section 75(5) and supported by no less than 80% of the disinterested Directors of the Company.

**ARTICLE 12:
REIMBURSEMENTS**

1. A Director of the Company may be reimbursed by the Company for reasonable and necessary expenses incurred in the *bona fide* performance of his/her duties to the Company, provided that any reimbursement of any expense not of a category of expenses expressly budgeted for in the annual budget of the Company approved by

the NEC 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 NEC shall be subject to the prior approval of a disinterested majority of the NEC of the Company by resolution.

2. The Rules of the company may place further restrictions on expenses to be reimbursed.

ARTICLE 13:

LOANS

1. The Company may not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to, a Director or Executive Officer of the Company, or to a person related to any such Director or Executive Manager, unless it constitutes an accountable advance to meet:

- (i) legal expenses in relation to a matter concerning the Company; or
- (ii) anticipated expenses to be incurred by the person on behalf of the Company, or
- (iii) is in terms of an employee benefit scheme generally available to all employees or a specific class of employees.

ARTICLE 14:

OFFICERS AND COMMITTEES:

- (a) The NEC may appoint any officers it considers necessary to better achieve the stated objects of the Company.
- (b) The NEC may appoint any number of committees, and to delegate to any such committees any of the authority of the NEC.
- (c) Any committee appointed by the NEC may include in any such committees persons who are not directors, provided that:
 - (i) Persons so included must not be ineligible or disqualified to be a director in terms of section 69; and

(ii) A person so included does not have a vote on a matter to be decided by the committee, unless specifically authorised thereto by the NEC;

(iii) The Committee may consult with or receive advice from any person; and

(iii) The committee shall have the authority delegated to it by the NEC in respect of a matter referred to it.

**ARTICLE 15:
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 NEC may from time to time determine.

**ARTICLE 16:
COMPANY RECORDS AND ACCOUNTING RECORDS**

1. All company records contemplated by section 24 of the Act, and all accounting records contemplated by section 28 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 NEC may from time to time determine.
2. The Company is to keep all minutes of every NGC - , NEC- and Office Bearers Committee meetings at the registered office of the Company. These records must be open for inspection by members for at least two hours every day during business hours.

**ARTICLE 17:
FINANCIAL YEAR**

The financial year of the Company shall end on 31 December of each year.

**ARTICLE 18:
ANNUAL FINANCIAL STATEMENTS**

- (a) Each year, the Company must prepare annual financial statements within six months after the end of its financial year.
- (b) The Company elects, in terms of section 30(2)(b)(ii)(aa), for the annual financial statements of the Company to be audited voluntarily.
- (c) The annual financial statements must:
 - i) include an auditor's report;
 - ii) include a report by the Directors with respect to the state of affairs, the business and surplus or shortfall of the Company;
 - iii) include any material matter relating to the Company's state of affairs;
 - iv) include all prescribed information;
 - v) be approved by the NEC and signed by an authorised Director; and
 - vi) be submitted to the Members at the first General Meeting after approval by the NEC and signed by the authorised Director, who has to sign the statements within nine months of the end of the financial year.

**ARTICLE 19:
ANNUAL RETURNS**

Each year, the Company must file an annual return in the prescribed form with the prescribed fee, and within the prescribed period (currently being 30 days) after the end of the anniversary of the date of its incorporation, which return must:

- a) include a copy of the Company's annual financial statements;
- b) designate a Director, employee or other person who is responsible for the Company's compliance with the transparency, accountability and integrity requirements in terms of Part C of Chapter 2 of the Companies Act, and the requirements of Chapter 3 of the Companies Act, if these requirements apply to the Company; and
- c) any other prescribed information.

**ARTICLE 20:
RESERVES**

The NEC shall set aside and carry to a reserve fund all the surplus funds of the Company, which may at their discretion be applied for any purpose for which such funds of the Company may properly be applied in such manner as the NGC deem fit.

**ARTICLE 21:
ALTERNATIVE DISPUTE RESOLUTION**

The Rules may make provision for disputes to be referred to alternative dispute resolution.

**ARTICLE 22:
NON-REVOCABLE DONATIONS**

1. The Company may not accept any donation:
 - (a) that may be withdrawn by the donor for reasons other than the Company failing to meet the purposes and conditions of the donation.
 - (b) Where the donor or a connected person in relation to the donor may benefit directly or indirectly from the donation. This requirement will not apply if the donor is a Public Benefit Organisation or an institution, NEC or body exempt under section 10(1)(cA)(i) of the Income Tax Act, 58 of 1962.

**ARTICLE 23:
WINDING UP OR DISSOLUTION OF THE COMPANY**

1. *The Company may be wound up voluntarily by the NGC in passing a special resolution. Any such voluntary winding up shall be effected in accordance with section 80.*
2. *The NGC may upon the winding-up, deregistration or dissolution of the Company by passing a special resolution decide to transfer the assets of the Company remaining after the satisfaction of all its liabilities to one or more Non-Profit Companies, registered external Non-Profit Companies carrying on activities within South Africa,*

voluntary association or non-profit trusts, which have objects similar to the main object of the Company and which are –

- a) approved as a PBO (if the Company, at the time of its dissolution, winding-up or deregistration, is also an approved PBO) ; or***
- b) exempt from tax under the provisions of section 10(1)(cA)(i) of the Income Tax Act, and which entity has as its sole or principal object the carrying on of one or more public benefit activities (as defined in terms of the Income Tax Act) or which has similar objects to that of the Company,***

- 3. *No past or present Director of the Company or Executive Officer is entitled to any part of the net value of the Company after its obligations and liabilities have been satisfied;***

ARTICLE 24:

OPTIONAL PROVISIONS OF THE ACT

- 1. Optional provisions of the Act which do apply**
 - a) Except as otherwise provided for herein, the Company does not elect, in terms of section 34 (2) of the Act, to comply voluntarily with the provisions of Chapter 3 of the Act. However, the company shall comply with Chapter 3 of the Act to the extent required in terms of the Act and the Regulations.
 - b) Notwithstanding the afore going and in accordance with sections 34(2), 84(1)(c)(ii), 85 -93 of the Act:
 - i) The Company elected to have its annual financial statements audited in terms of sections 30(2) and (7), read with Regulation 28 and Regulation 26(2), and therefore the Company shall comply to the extent necessary with the provisions of Chapter 3 of the Companies Act with which it is required to comply.
 - ii) The Company may, but is not obliged to, appoint a person to serve as company secretary and/or appoint a person to serve as an auditor, and/or establish an audit committee, on such terms and subject to such conditions as the NEC in its discretion may from time to time determine.