

Issue date 1st August 2019

Republic of South Africa
Companies Act, 2008

MEMORANDUM OF INCORPORATION FOR A NON-PROFIT COMPANY WITH MEMBERS

Name of company: **PRODUCTION TECHNOLOGIES ASSOCIATION OF SOUTH AFRICA NPC**

Registration No.: 2006/007417/08

This Memorandum of incorporation (MOI) was adopted by Special Resolution passed on 1 August 2019 by the existing members of the **PRODUCTION TECHNOLOGIES ASSOCIATION OF SOUTH AFRICA**, a copy of which was filed, together with the Notice of Incorporation. This MOI takes effect (in terms of Section 16(9)(b)(ii) of the Companies Act) on the date of the passing of the aforesaid Special Resolution and same shall be filed together with the Notice of Incorporation.

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1. INTERPRETATION

In this MOI, -

1.1. words that are defined in the Companies Act (which are contained in **Annexure A** for easy reference but which do not form part of this MOI for purposes of interpretation) but not defined in this MOI will bear the same meaning in this MOI as in the Companies Act. For ease of reading, such terms have been capitalised in this MOI;

1.2. unless the context otherwise requires –

1.2.1. "**Address**" shall include Electronic Address, business, residential or postal or any other address furnished by the Member to the Company.

1.2.2. "**Board**" or "**BoD**" means the Board of Directors of the Company.

1.2.3. "**Companies Act**" means the Companies Act, No 71 of 2008.

1.2.4. "**Company**" means Production Technologies Association of South Africa NPC (Registration No2006/007417/08);

1.2.5. "**Constitution of South Africa**" means the Constitution of the Republic of South Africa Act, No. 108 of 1996.

1.2.6. "**Deliver**" means deliver in the manner in which the Company is entitled to give notice or deliver documents in accordance with this MOI.

1.2.7. "**Electronic Address**" means in regard to Electronic Communication, any email or other electronic address furnished to the Company by the Member.

1.2.8. "**EXCO**" shall mean the Executive Committee of the Company.

1.2.9. "**Ineligible or Disqualified**" means ineligible or disqualified as contemplated in the Companies Act (a list of which is in **Annexure B** for easy reference but which do not form part of this MOI for purposes of interpretation), which shall apply not only to Directors and Alternate Directors, but also to members of the Committees and Prescribed Officers of the Company;

- 1.2.10. "**Member**" means a person who holds membership in, and specified rights in respect of the Company, in accordance with the provisions of this MOI and includes the Founding Members and such other persons as the directors of the Company shall admit to membership, in accordance with the provisions of this MOI.
- 1.2.11. "**Members' Meeting**", with respect to any particular matter concerning the Company, means a meeting of the Members entitled to exercise Voting Rights thereat.
- 1.2.12. "**Membership Register**" means the register of Members required to be kept in terms of Section 24(4) of the Companies Act.
- 1.2.13. "**MOI**" means this Memorandum of Incorporation.
- 1.2.14. "**NTIP**" means the National Technologies Implementation Platform (Pty) Ltd a project management company and subsidiary of PtSA.
- 1.2.15. "**Objects**" means the main objects of the Company as contemplated in **Clause 4** hereof.
- 1.2.16. "**Person**" includes a Juristic or Natural Person and an Unincorporated Voluntary Association.
- 1.2.17. "**PtSA**" shall mean the Production Technologies Association of South Africa and "**PtSA REGIONAL ASSOCIATIONS**" shall mean the corporate members of PtSA, consisting of regional industry members having an interest in subscribing to the aims and objectives of PtSA.
- 1.2.18. "**Present at a Meeting**", depending on the context, means to be present in person, or able to participate in the meeting in question by Electronic Communication, or to be represented by a proxy or representative who is present in person or able to participate in the meeting in question by Electronic Communication.
- 1.2.19. "**Regulations**" means regulations published pursuant to the Companies Act.

1.2.20. **"Round Robin Resolution"** means a resolution passed other than at a –

1.2.20.1. Members' Meeting, which –

1.2.20.1.1. was submitted for consideration to the Persons entitled to Exercise Voting Rights in relation to the resolution; and

1.2.20.1.2. was voted on by the requisite percentage of the Persons entitled to vote, by signing a resolution in counterparts within 20 (twenty) Business Days after the resolution was submitted to them,

and includes written polling of Persons entitled to vote regarding the election of BoD;

1.2.20.1.3. meeting of BoD, in respect of which, all the Directors, being not less than a quorum of Directors, voted in favour by signing in writing a resolution in counterparts, within 20 (twenty) Business Days after the resolution was submitted to them.

1.2.21. **"TDM"** shall mean the Tool, Die and Mould Making Industry.

1.2.22. **"Voting Rights"** means the rights of a member to vote in connection with a matter in relation to the Company as provided for in this MOI.

1.2.23. **"Writing"** or **"Written"** includes Electronic Communication but, as regards any Member entitled to vote, only to the extent that such Member has notified the Company of an Electronic Address.

1.3. references to Members represented by proxy shall include Members entitled to vote, represented by an agent appointed under a General or Special Power of Attorney.

1.4. references to Members entitled to vote present at a Meeting or acting in person shall include Juristic Persons represented by duly authorised representatives or acting in the manner prescribed in the Companies Act.

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- 1.5. all references to "section/s" in this MOI refer to the sections of the Companies Act, unless the context indicates otherwise.
- 1.6. references to any legislation are to that piece of legislation as at the date of filing of this MOI and as amended, re-enacted or replaced from time to time and includes any subordinate legislation made from time to time under such legislation. Any reference to a particular section in a piece of legislation is to that section as at the date of filing of this MOI, and as amended or re-enacted from time to time and/or an equivalent measure in a piece of legislation, provided that if as a result of such amendment or re-enactment, the specific requirements of a section referred to in this MOI are changed, the relevant provision of this MOI shall be read also as if it had been amended as necessary, without the necessity for an actual amendment;
- 1.7. the headings are for reference purposes only and shall not affect the interpretation of this MOI;
- 1.8. words –
 - 1.8.1. in the singular number shall include the plural number, and words in the plural number shall include the singular number.
 - 1.8.2. importing the masculine gender shall include the female gender; and *vice versa*, and
 - 1.8.3. importing persons shall include created entities (corporate or not);
- 1.9. if any term is defined within the context of any particular clause in the MOI, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in this interpretation provision; and
- 1.10. the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI.

2. **CALCULATION OF BUSINESS DAYS**

When a particular number of Business Days is provided for between the happening of one event and another, the number of days must be calculated by —

- 2.1. excluding the day on which the first such event occurs.

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- 2.2. including the day on or by which the second event is to occur; and
- 2.3. excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in **Clauses 2.1** and **2.2** respectively.

3. **NON-PROFIT COMPANY**

The Company is a Non-Profit Company with Members as it is:

- 3.1. incorporated for an object relating to communal or group interests or other object as required by [item 1\(1\)](#) of [Schedule 1](#) to the Companies Act;
- 3.2. consistent with the principles set out in items 1(2) to 1(9) of Schedule 1 to the Companies Act; and
- 3.3. prohibited from directly or indirectly distributing any of its funds to any Person (otherwise than in the course of carrying out its stated Objects and to the extent permitted by item 1(3) of Schedule 1 to the Companies Act) and is required to solely utilise its funds for the purpose that it has been established.

4. **OBJECTS OF THE COMPANY**

- 4.1 The main object of the Company is **TO PROMOTE THE INTERESTS OF THE PRODUCTION TECHNOLOGIES INDUSTRY OF SOUTH AFRICA**. To give effect thereto, the application of the Main Object shall be as set forth hereunder:
- 4.2 To promote, protect and encourage the collective interests and image of the members and to watch over and protect the general interests of companies, firms and persons engaged mainly or substantially in the Production Technologies Industry and allied manufacturing industries.
- 4.3 To promote and disseminate to members and the authorities any information of value and use to them.
- 4.4 To promote, support or oppose any proposed legislative or other measures affecting the interests of members collectively.
- 4.5 To co-operate as desirable in the promotion of the economic welfare of the Production Technologies and allied manufacturing industry, with any other organization(s) having aims similar to those of the Association.

- 4.6 . To join or affiliate with or become a member of anybody or other association or to co-operate with such body or association, whether in or outside the Republic.
- 4.7 . To represent the interests of the members and of the industry in all spheres wherein collective representation is deemed desirable and to enter into arrangements with the Government or other authority as may be considered necessary in the interests of member organizations.
- 4.8 . To purchase or acquire or take on lease any movable or immovable property and to sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account, or otherwise deal with all or any part of the property and rights of the Association, and/or appoint trustees for these purposes and to define the powers and duties of such trustees where deemed expedient.
- 4.9. To take any gift/donation whether subject to any special trust or not, for any one or more of the objectives of the Association.
- 4.10. To do such lawful things as the Association may deem incidental or conducive to the advancement and improvement of any aspect deemed necessary for furthering the interest of the Association either in the Republic or abroad.
- 4.11. To print, publish or advertise in any news media, periodical, book or leaflet that the Association may deem desirable.
- 4.12. To do all such other things as are incidental or conducive to the attainment of the objectives above specified.
- 4.13. To achieve the management objectives of the company as follows: -
 - 4.13.1 accelerate and manage the pace of skill development for Production Technologies Industry.

- 4.13.2 identifying the present available human resources in the toolmaking industry, filling the skills gap in the short term and strategizing of medium- and long-term goals.
- 4.13.3 establish working partnerships with the various Original Equipment Manufacturers, automotive and other related industries.
- 4.13.4 development of strategies and support mechanisms to recapitalize the Production Technologies industry with cost-effective, cutting edge technology.
- 4.13.5 establish an integrated effective network of specialized expertise and activities.
- 4.13.6 enter into a partnership with government to pilot a unified Community Public Private Partnerships Programs for regional, local and national role players and stakeholders.
- 4.13.7 mobilize, influence and lobby membership, policy and decision makers towards the development of TDM sector for the benefit of the manufacturing industry.
- 4.13.8 nurture a paradigm shift to a new culture for the Production Technologies Industry.
- 4.13.9 support the partnership program to align and benchmark our quality performance to world class norms, standards, protocols and productivity.
- 4.13.10 participate and contribute to all government policies such as: Black Economic Empowerment, Job Creation, and the addressing of HIV and AIDS treatment.

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- 4.14 The whole of the activities of the Company shall be directed to the furtherance of its principal objectives as stated herein and not for the benefit of an individual member, or minority group.

5. REGIONS

It is intended that 6 (Six) Member's regions shall be:

Kwa-Zulu Natal

Eastern Cape

Western Cape

Gauteng

Mpumalanga

Limpopo

- 5.1. The Members shall, for the purposes of the election of the BoD of representatives for those of the 6 (Six) regions established, be required to vote only for a Director for the respective region in which the Members are situated. For example, Western Cape Members will vote for 1 (One) Director to represent that region. (Refer also clause 18.4)
- 5.2. Regions shall be defined by the critical mass of members who are wishing to form a PtSA Region to represent the industry in this specific region. (Refer also clause 5.4)
- 5.3. The Company shall accept any new regions, as long as all the legal requirements for same are fulfilled as per this MOI.
- 5.4. A PtSA region at a regional AGM, shall elect its Chairman and thereafter, a maximum of 5 (five) members to its Executive Committee 6 (six) in total. With the approval of the BoD, Executive Committee members may be reduced to a minimum of 3 (three) members plus the Chairman 4 (four) in total.
- 5.5. The elected Regional PtSA Chairman automatically becomes a nominee on the Company's BOD.
- 5.6. The principal functions of the PtSA regions are:

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- 5.6.1. to promote the objectives of PtSA at a regional level.
- 5.6.2. to compile and approve a regional financial budget and to manage its regional finances in accordance with such approved budget
- 5.6.3. to promote membership and the approval of membership applications.

5.7. Nothing herein set forth shall be construed as conveying upon any PtSA region, any separate juristic or legal identity.

6. **SUBSCRIPTIONS & FUNDING**

- 6.1. In order for the Company to be sustainable and self-reliant, contributions from Members in the form of subscriptions and shall be payable annually in the amount to be recommended by the BoD and approved by the Annual General Meeting or special meetings of the Members.
- 6.2. In order to implement the entry of Members to PtSA and to take account of the size and resources of Members, the subscriptions will be fixed by the class and category of Member decided by the BoD.
- 6.3. For the sustainability and self-reliance ideal of the Company, the BoD shall from time-to-time fix fees to be payable for services to be provided by the Company, as well as to cover the costs and expenses of the Company in providing the services where the person receiving the service in the discretion of the BoD shall make a lesser contribution for the services.
- 6.4. The Company, by its nature may also be the recipient of donor, and grant aid or funding from its long term or annual members, or from the sphere of National, Provincial, or Local Government, which shall be utilized for the achievements of the objectives of the Company.

7. **CONDITIONS**

7.1. The Company:

- 7.1.1. must apply all of its assets and income, however derived, and direct the whole of its activities, to advance its stated Objects, as set out in **Clause 4**,

and not for the specific benefit of an individual Member or minority group;
and

7.1.2. subject to the provisions of this MOI, may –

7.1.2.1. acquire and hold securities issued by a profit company; and

7.1.2.2. directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to its stated Objects.

7.2. The Company must not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless of whether and how the income or asset was derived, to any person who is or was an Incorporator of the Company, who is a member or Director of the Company, or person who is entitled to nominate or appoint a Director to the BoD of the Company, as defined in the Fourth Schedule except -

7.2.1. as reasonable (and not excessive, having regard to the relevant sector and the relevant service) -

7.2.1.1. remuneration for goods delivered or services rendered to, or at the direction of, the Company; or

7.2.1.2. payment or advancement of funds, in accordance with any policy relating to expenses as may be determined by the BoD from time to time, for expenses incurred, or to be incurred, to advance a stated Object of the Company.

7.2.2. 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

7.2.3. 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

7.2.4. in respect of any legal obligation binding on the Company,

subject always to the requirement that any such distribution must not directly or indirectly promote the economic self-interest of any Director or employee of the Company, or person identified in Schedule 4.

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- 7.3. No single person shall directly or indirectly control the decision-making powers relating to the Company.
- 7.4. Save as provided in **7.2** above, the Company may not directly or indirectly distribute any of its funds or assets to any person, other than in the course of furthering its objectives.
- 7.5. No Member may have any personal or private interest in the Company.
- 7.6. The Company may not have a share or other interest in any business profession or occupation carried on by any of its members.

8. **POWERS AND CAPACITY OF THE COMPANY**

- 8.1. The Company has the powers and capacity of an individual, save to the extent set out in the Companies Act (including as set out in items 1(3) and 1(4) of Schedule 1), the Regulations, and this **Clause 8** as well as the limitations in **Clause 7**.
- 8.2. To the extent that the Companies Act requires a Non-Profit Company to be expressly authorised by its MOI to do anything, the Company is, by this provision, conferred with the requisite authority to do so, subject to any limitations set out in this MOI.
- 8.3. The Company shall not –
 - 8.3.1. carry on any profit-making activities.
 - 8.3.2. participate in any business, profession or occupation carried on by any of its members or become directly involved in production technology activities or become involved in opposition to its own members;
 - 8.3.3. provide any financial assistance, premises, continuous services, or facilities to its members for the purpose of carrying on any business, profession or occupation by them; or
 - 8.3.4. have the power to distribute *in specie* or in kind any of its assets among its Members, Directors, Incorporators or Members entitled to nominate Directors in terms of this MOI.

9. **LEGAL STATUS, LITIGATION, LIABILITY AND INDEMNITY**

- 9.1. The Company shall be a Corporate Body with perpetual succession having an

existence separate from its members, capable of suing and being sued and holding property in its own name.

- 9.2. All legal proceedings which shall be brought by or against the Company be recorded and handled at BOD meetings and the Company may authorise any Member of its BOD to act on its behalf and to sign all such documents and to take all such steps as may be necessary in connection with any such proceedings.
- 9.3. The Company shall not be responsible for liabilities incurred by Members or by individuals.
- 9.4. All acts done by the BOD, or any person acting as a director shall, notwithstanding that it afterwards be discovered that there was some defect in the appointment of any such directors, or persons acting as aforesaid, or that they or any of them are disqualified, be as valid as if every such person had been duly appointed and were qualified to be a director.
- 9.5. Subject to the provisions of the Companies Act, the Members of the BoD, auditors, secretary and other officers for the time being of the Company, and every one of them and every one of their executors and administrators, shall be indemnified and secured harmless out of the assets of the Company from and against all actions, costs, charges, losses, damages and expenses which they or any of them, or any of their executors or administrators shall or may incur or sustain by or by reason of any act done, concurred in or admitted in or about the execution of their duty, in their respective offices, except such (if any) as they shall incur or sustain by or through their own wilful neglect or default respectively, and subject to as aforesaid, none of them should be answerable to the acts, receipts, neglects or defaults of the other or others of them, or for joining in any receipt for the sake of conformity, or for any bankers or other persons which whom any monies or effects belonging to the Company shall or may be lodged or deposited for safe custody of for insufficiency or deficiency of any security upon which any monies of or belonging to the Company shall be placed out or invested, or for any loss, misfortune or damage which may happen in execution of their respective offices or in reaction thereto, unless the same shall happen by or through their own wilful neglect or default respectively.

10. MEMBERSHIP

10.1. The Members of the Company shall be comprised initially of the following constituent structures of the Company, namely:

10.1.1. the representatives of the established PtSA regions and the executive members in accordance with this MOI.

10.1.2. the Members, including the present members of the Association, and the Members representatives from time to time, whom the BoD of the Company admit to Membership, as follows:

10.1.2.1. **Industry Members** - who shall be sole proprietors, partnerships, close corporations, companies (public and private) who have as their main business toolmaking or have an in-house toolmaking division of their business.

10.1.2.2. **Associate Members** - businesses allied to the toolmaking industry and service providers to the TDM industry

10.1.2.3. **Institutional Members** – association's academic institutions or colleges (e.g. CSIR SABS, SEIFSA, University of Stellenbosch)

10.1.2.4. **Registered Professional Members** – Toolmakers, Technicians, Engineers or relevant interested parties employed in the Toolmaking Industry

10.1.2.5. **Honorary or Individual Members** admitted as Members by the BoD in their discretion and for a term resolved by the BoD.

10.2. A Member shall be a Member of PtSA whilst he complies with his obligations to the Company and qualifies under the criteria below and particularly for as long as the Member pays its annual contributions timeously.

10.3. Members shall be admitted by the BoD of the Company and continue to be Members providing that they qualify in accordance with the requirements of membership.

10.4. The Members, including the present Members of the Association, shall be obliged to complete a Member's application form in which the Member shall undertake, *inter*

alia, to fulfil the duties and responsibilities as per this MOI and to contribute to the assets of the Company in the event of it being wound up, whilst he is a Member, or within 1-year after he has ceased to be a Member, for payments of the debts and liabilities of the Company contracted before he ceased to be a Member in the amount of R 1.00 (One Rand).

10.5. No Member shall be entitled to transfer his Membership without the written consent of the BoD first being had and obtained.

10.6. Executive and non-executive Members shall be nominated by their respective constituencies and shall continue to be Members, so nominated, provided that they qualify as members and maintain their qualifications.

11. VOTING OF MEMBERS

11.1. Any Member which is a juristic person, and any partnership, shall be represented by a nominee or alternative nominee in terms of a written resolution provided to the Secretary of the Company prior to any meeting.

11.2. Only Industry Members shall exercise such voting rights in accordance with the weight attributed by the BoD to the class and category of the Member from time to time.

12. CESSATION OF MEMBERSHIP

12.1. A Member shall *ipso facto* cease to be a Member of the Company, if such Member –

12.1.1. ceases to exist.

12.1.2. is liquidated or wound up whether provisionally or finally and whether compulsorily or voluntarily or commences business rescue proceedings; or

12.1.3. commits any act of insolvency; or

12.1.4. as otherwise contemplated in this MOI.

12.2. The BoD may terminate, either summarily or, after such period as it shall determine, or suspend, the membership of any Member of the Company if –

- 12.2.1. the Member is guilty of conduct which has, or is likely to, bring the Company into disrepute.
 - 12.2.2. the Member fails to attend 3 (three) consecutive Members' Meetings without an explanation acceptable to the BoD.
 - 12.2.3. the Member fails to disclose any material interest that it may have in any contract or arrangement, of which the Member is aware, and in which the Company is an interested party.
 - 12.2.4. the Member discloses to a third party, without the written consent of the BoD, matters concerning the Company that are of a confidential nature.
 - 12.2.5. in the sole discretion of the (majority of) BoD, the Member is guilty of conduct inimical to the interests and/or Objects of the Company; or
 - 12.2.6. in the sole discretion of the (majority of) BoD, it is inimical to the interests of the Company that the Member should continue as a member.
- 12.3. At least 1 (one) representative elected by each Category of Members, which representative may not be a member of the BoD, shall be entitled to participate in any decision of the BoD to terminate or suspend the membership of any Member, as contemplated in **Clause 12.2**. The quorum for a meeting at which such a decision is intended to be taken, shall be the quorum necessary for a meeting of the BoD, as well as at least 1 (one) representative elected by each Category of Members in terms of this **Clause 10.1.2**. The decision of those present at the Meeting to terminate or suspend the membership of any Member shall be final and binding upon the Company, subject to **Clause 12.4** hereunder.
- 12.4. The BoD shall furnish reasons for the termination of membership in terms of **Clause 12.3** to the relevant Member in writing. Such Member shall have the right, exercisable by notice in writing delivered to the Chairperson of the BoD within 14 (fourteen) days of receipt of reasons for termination of membership, to be heard by the same persons that were present at the Meeting referred to in **Clause 12.3** within 30 (thirty) days of receipt by the chairperson of the BoD of such notice. Within 7 (seven) days of the hearing, the BoD and Members' representatives that were present at the hearing may rescind, confirm or amend the termination of membership. Until such rescission, confirmation or amendment is made, no public announcement of such decision shall be made within or outside of the Company.

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12.5. A Member whose membership has been terminated or who has tendered its resignation shall remain liable for all sums owed by it to the Company in respect of the financial year during which membership is terminated and shall not be entitled to any refund of any monies already paid by it nor have any claim against the Company.

12.6. A Member shall also cease to be a Member of the Company as follows:

12.6.1. if he resigns, on 1 (One) calendar months written notice to the secretary of the Company. He shall nevertheless, for the period after he ceases to be a Member, remain liable in terms of the undertakings set out in this MOI, incurred during the period of his membership.

12.6.2. any Member failing to maintain his qualification will immediately and without notice cease to be a member.

12.7. Any Member who fails to pay his contribution timeously will cease to be able to exercise his voting rights if the Member's subscription remains unpaid after (Three) months from becoming due, and thereafter will immediately and without notice cease to be a Member of PtSA.

12.8. Any Member who resigns, retires or is dismissed from the organisation that originally nominated that person, as a BOD member, shall automatically be deemed to have resigned from the BOD and a new nomination will be expected from the represented organisation to replace the resigned Member.

12.9. Termination or suspension of membership shall not in any way nullify any financial liability of Members of the Company or negate their commitments to the Company. Termination or suspension of membership shall result in the immediate forfeiture of all rights of the Member for participation in any of the activities of the Company.

13. **MEMBERSHIP REGISTER**

13.1. The Company shall maintain a Membership Register in accordance with the provisions of Section 24(4) of the Companies Act.

- 13.2 The Company shall cause the Membership Register to reflect –
- 13.2.1 the names and identifying numbers or company registration numbers, if any, of the Members.
 - 13.2.2 the names and contact details of the chief executive officer and Chairperson of the Members.
 - 13.2.3 each Member's business, residential or postal Address.
 - 13.2.4 each Member's Electronic Address/es, where these have been furnished.
 - 13.2.5 the date on which the Person became a Member of the Company and if applicable, the date on which such Member ceased to be a Member of the Company.
 - 13.2.6 the Category of such Member; and
 - 13.2.7 any other information prescribed in terms of the Companies Act from time to time.
- 13.2 The Company shall not be bound to enter any Person in the Membership Register until that Person gives the Company an Address for entry on the Membership Register.

14 **ANNUAL GENERAL MEETINGS**

- 14.1 The Company shall convene an Annual Members' Meeting once in every calendar year, but no more than 15 (fifteen) months after the date of the previous annual Members' Meeting and not more than 9 (nine) months after the end of every ensuing financial year of the Company, whichever is the lesser, or within an extended time allowed by the Companies Tribunal, on good cause shown, which must, at a minimum, provide for the following business to be transacted
- 14.1.1 presentation of –
 - 14.1.1.1 the Annual Report.
 - 14.1.1.2 the BoD' Report.
 - 14.1.1.3 Audited Financial Statements for the immediately preceding financial year.

14.1.1.4 the reports of any Committees.

14.1.2 election or ratification of National Chairman

14.1.3 election or ratification of BOD

14.1.4 election or ratification of Group Secretary

14.1.5 election or ratification of National Treasurer

14.1.6 appointment of an Auditor

14.1.7 the consideration of broad policy parameters for the Company.

14.1.8 any matters raised by Members or BoD, with or without advance notice to the Company.

N.B. Election or ratification shall be subject to the term of office served as defined in clause 18.7.

14.2 An Annual Member's Meeting and a General Meeting call for the passing of a Special Resolution, shall be called by not less than 21 (twenty-one) clear days, notice in writing. Any other General Meeting shall be called by 15 (fifteen) clear days' notice in writing. The Notice shall be exclusive of the day on which it is served, or deemed to be served and shall specify the date, hour and place of the meeting and shall be given in the manner hereinafter mentioned, or in such other manner, if any, as maybe prescribed by the Company in General Meeting, to all such persons as are, under this MOI entitled to receive such notice from the Company; provided that a meeting of the Company shall, notwithstanding the fact that it is called by shorter notice than that specified in this MOI, be deemed to have been duly called, if it is to be agreed by a majority of the Members having a right to attend and vote at the meeting, being a majority holding not less than two thirds of the total voting rights of all Members.

14.3 The accidental omission to give notice of any meeting to any particular member shall not invalidate a Resolution passed at any such meeting.

15 PROCEEDINGS AT GENERAL MEETINGS

15.1 The Chairperson of the BOD shall preside at every General Meeting. In the absence of the Chairperson, his powers and duties shall devolve upon the Vice Chairperson, if any. In the event of both the Chairperson and Vice Chairperson

being absent from the General Meeting, the Members present shall elect a presiding officer from among their number.

- 15.2 A Member who intends to bring a motion before a General Meeting shall, not less than 10 (ten) days before the day appointed for the said General Meeting, serve upon the Company at its registered office, a notice in writing, signed by himself and one other member, containing the proposed resolution. Upon receipt of such notice, the secretary shall, in any case where the notice is received before the Notice of the General Meeting is issued, include it in the notice of the General Meeting, and shall in any other case, issue as quickly as possible to the Members, notice that such resolution will be proposed.
- 15.3 The Chairperson may with the consent of any General Meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 15.4 No business shall be transacted at any General Meeting, unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, at least 20 (twenty) members present in person, or 5% (Five Percent) of the Members entitled to attend and vote at the meeting, whichever is the lesser shall be a quorum.
- 15.5 Minutes shall be kept in respect of all business conducted at such general meetings.
- 15.6 The Annual General Meeting shall appoint and/or confirm the National Chairman i.e., the President of PtSA, who must be an industry member of good standing and a Regional Chairman and who must have considerable experience and proven knowledge of the South African Tooling Industry
- 15.7 The offices of National Chairman shall be filled from the nominee appointed by the Members of the Company. The nominee shall be submitted by the BoD and by the Members *mutatis mutandis*, at least 6 (six) weeks before the Annual General Meeting. Such appointment shall be made by a show of hands of the members at the Annual General Meeting.

- 15.8 The Annual General Meeting shall appoint and/or confirm the National Secretary and the National Treasurer.
- 15.9 The offices of National Secretary and National Treasurer shall be filled by the nominees appointed by the Members of the Company. The nominees for such posts shall be submitted by the BoD and by the Members mutatis mutandis, at least 6 (weeks) weeks before the Annual General Meeting. Such appointment shall be made by a show of hands of the members at the Annual General Meeting.

16 VOTING AT GENERAL MEETINGS

- 16.1 Each Industry Member present (in person) or represented by a proxy (which proxy shall be in writing and shall be lodged with the Company's secretary, not less than 24 hours before such General Meeting) at a General Meeting shall be entitled to a vote and shall have 1 (one) vote. Only an Industry Member may act as a Proxy and no Industry Member shall hold more than 1 (one) proxy at anyone meeting.
- 16.2 At a General Meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll has (before or on the declaration of the result of the show of hands), been demanded by at least three Members present in person and entitled to vote, or by a Member or Members representing not less than one tenth of the total number of Members having the right to vote at a General Meeting, whichever is the lesser and unless a poll is so demanded, by declaration by the Chairperson that a Resolution has on a show of hands, been carried, or carried unanimously by a particular majority, or lost, an entry to that effect in the book of proceedings of the Company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for the poll may be withdrawn.
- 16.3 If a poll is duly demanded, it shall be taken in such a manner as the Chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 16.4 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson of the meeting shall be entitled to a second or casting vote.
- 16.5 A poll demanded on the election of a Chairperson or on a question of adjournment shall be taken forthwith. A poll demanded on any other question should be taken at

such time as the Chairperson of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll is demanded.

16.6 The Company shall, as determined by the BoD, either –

16.6.1 hold a Members' Meeting in order to consider one or more resolutions; or

16.6.2 as regards such resolution/s that could be voted on at a Members' Meeting, other than an annual Members' Meeting, instead require them to be dealt with by Round Robin Resolution.

16.7 Within 10 (ten) Business Days after a Round Robin Resolution is adopted, the Company must Deliver a statement describing the results of the vote, consent process, or election to every Member who was entitled to vote on or consent to the Round Robin Resolution.

16.8 A Company must hold a Members' Meeting or put the proposed resolution by way of a Round Robin Resolution contemplated in **Clause 1.2.20.1** at any time that the BoD is required by the Companies Act or the MOI to refer a matter to Members entitled to vote for a decision.

16.9 Each resolution shall be expressed with sufficient clarity and specificity and accompanied by sufficient information / explanatory material to enable a Person who is entitled to vote on the resolution to determine whether to participate in the Members' Meeting, if applicable, and to seek to influence the outcome of the vote on the resolution. Once a resolution has been approved, it may not be challenged or impugned on the ground that it did not comply with the foregoing.

16.10 A Members' Meeting must be convened or the BoD must put the proposed resolution by way of a Round Robin Resolution contemplated in **Clause 1.2.20.1** if one or more Written and signed demands for such a Members' Meeting or Round Robin Resolution is/are delivered to the Company, and

16.10.1 each such demand describes the specific purpose for which the Members' Meeting is proposed; and

16.10.2 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 per cent) of the Voting Rights entitled to be Exercised in relation to the matter proposed to be considered at the Members' Meeting.

16.11 Round Robin Resolutions contemplated in **Clause 16.6** will be passed if signed by Persons entitled to exercise sufficient Voting Rights for it to have been adopted as an Ordinary or Special Resolution at a properly constituted Members' Meeting.

16.12 Every Members' Meeting shall be held where the BoD determines from time to time. The authority of the Company to conduct a Members' Meeting entirely by Electronic Communication, or to provide for participation in a Members' Meeting by Electronic Communication so long as the Electronic Communication employed ordinarily enables all Persons participating in that Members' Meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the Members' Meeting, as set out in Section 63(2) of the Companies Act, is not limited or restricted.

16.13 A Members' Meeting shall be called by at least 15 (fifteen) clear days' notice delivered by the Company.

16.14 The Company may call a Members' Meeting with less notice than required by **16.13**, but such a Members' Meeting may proceed only if every Person who is entitled to Exercise Voting Rights in respect of any item on the meeting agenda.

16.14.1 is present at the Meeting; and

16.14.2 votes to waive the required minimum notice of the Members' Meeting.

16.15 A Member entitled to vote, who is present at a Meeting:

16.15.1 is regarded as having received or waived notice of the Members' Meeting if at least the required minimum notice was given.

16.15.2 has a right to —

16.15.2.1 allege a material defect in the form of notice for a particular item on the agenda for the Members' Meeting; and

16.15.2.2 participate in the determination of whether to waive the requirements for notice, if at least the required minimum notice was given, or to ratify a defective notice; and

16.15.3 is regarded to have waived any right based on an actual or alleged Material defect in the notice of the Members' Meeting

16.16 A notice of a Members' Meeting must be in writing, in plain language and must include:

16.16.1 the date, time and place for the Members' Meeting, and the Record Date for determining the Members entitled to exercise Voting Rights at the Members' Meeting.

16.16.2 the general purpose of the Members' Meeting, and any specific purpose, if applicable.

16.16.3 in the case of the Annual Members' Meeting, a summarised form of the Financial Statements to be presented and directions for obtaining a copy of the complete annual Financial Statements for the preceding financial year.

16.16.4 a copy of any proposed resolution of which the Company has received notice in terms of Section 61(3) of the Companies Act, and which is to be considered at the Members' Meeting, and a notice of the percentage of Voting Rights that will be required for that resolution to be adopted.

16.16.5 a reasonably prominent statement that -

16.16.5.1 a Member entitled to attend and vote at the Members' Meeting shall be entitled to appoint a proxy to attend, participate in, speak and vote at the Members' Meeting in the place of the Member entitled to vote or give or withhold written consent on behalf of the Member entitled to vote to a decision by Round Robin Resolution contemplated in **Clause 16.6**.

16.16.5.2 a proxy shall be a representative of a Member.

16.16.5.3 the proxy may not delegate the authority granted to it as proxy.

16.16.5.4 participants in a Members' Meeting are required to furnish satisfactory identification in terms of Section 63(1) of the Companies Act in order to reasonably satisfy the person presiding at the Members' Meeting that the right of that person to participate and vote either as a Member or as a proxy, has been reasonably verified.

16.16.5.5 of the availability of that participation in the Members' Meeting by Electronic Communication and provide any necessary information to enable Members entitled to vote or their proxies to access the available medium or means of Electronic Communication and advise that access to the medium or means of Electronic Communication is at the expense of the Member entitled to vote or proxy, except to the extent that the Company determines otherwise.

16.17 A Members' Meeting may proceed, subject to **Clause 16.18** hereunder, notwithstanding a material defect in the giving of the notice, only if every person who is entitled to exercise Voting Rights in respect of each item on the Agenda of the Members' Meeting is present at the Meeting and votes to approve the ratification of the defective notice.

16.18 If a material defect in the form or manner of giving notice of a Members' Meeting relates only to one or more particular matters on the Agenda for the Members' Meeting

16.18.1 any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the Agenda; and

16.18.2 the Members' Meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified.

16.19 An immaterial defect in the form or manner of delivering notice of a Members' Meeting, or an accidental or inadvertent failure in the delivery of the notice to any particular Member to whom it was addressed, if the Company elects to do so, does not invalidate any action taken at the Members' Meeting.

16.20 The BoD may invite any person to attend a Members' Meeting, provided that such Person may not participate in the consideration of or vote on any matters to be decided thereat, unless that person is requested to provide insight into the matter to be decided.

16.21 Business may be transacted at any Members' Meeting only while a quorum is present

16.22 A Members' Meeting may not begin, and a matter to be decided at the Members' Meeting may not begin to be considered, until sufficient persons are present at the Meeting to constitute a quorum as contemplated in **Clause 15.4**.

- 16.23 A matter to be decided at the Members' Meeting may not begin to be considered unless those who fulfilled the quorum requirements contemplated in **Clause 15.4**, continue to be present at the Meeting.
- 16.24 If within 30 (thirty) minutes from the time appointed for the Members' Meeting to commence, a quorum is not present, the Members' Meeting shall be postponed, without motion, vote or further notice, for 1 (one) week to the same day in the next week or, if that day be a public holiday, to the next succeeding day which is not a public holiday, and if at such adjourned Members' Meeting a quorum is not present within 10 (ten) minutes from the time appointed for the Members' Meeting then, the Person/s entitled to vote Present at the Meeting shall be deemed to be the requisite quorum.
- 16.25 A Members' Meeting, or the consideration of any matter being debated at the Members' Meeting, may be adjourned from time to time on a motion supported by Persons entitled to Exercise, in aggregate, a majority of the Voting Rights:
- 16.25.1 held by all of the persons who are present at the Meeting at the time; and
- 16.25.2 that are entitled to be exercised on at least one matter remaining on the agenda of the Members' Meeting, or on the matter under debate, as the case may be.
- Such adjournment may be either to a fixed time and place or until further notice, as agreed at the Members' Meeting.
- 16.26 A Members' Meeting may not be adjourned beyond the earlier of
- 16.26.1 the date that is 120 (one hundred and twenty) Business Days after the Record Date; or
- 16.26.2 the date that is 60 (sixty) Business Days after the date on which the adjournment occurred.
- 16.27 Notice of any postponed or adjourned Members' Meeting is required to be delivered by the Company to all Members entitled to vote or otherwise entitled to receive notice.
- 16.28 The Chairperson, referred to in **Clause 15.1**, shall preside as chairperson at every Members' Meeting. If there is no such Chairperson, or if at any Members' Meeting

she/he is not present within 15 (fifteen) minutes after the time appointed for holding the Members' Meeting, or is unwilling to act as chairperson, the persons entitled to vote, who are present at the Meeting shall select a Director present at the Meeting, or if no Director be present at the Members' Meeting, or if all the Directors present decline to take the chair, the persons entitled to vote shall select one of their number who is present at the Meeting to be chairperson of the Members' Meeting.

- 16.29 Every resolution of Members is either an Ordinary Resolution or a Special Resolution. An Ordinary Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI, shall require to be adopted with the support of more than 50% (fifty per cent) of the Voting Rights exercised on the resolution. A Special Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI, shall require to be adopted with the support of at least 75% (seventy-five per cent) of the Voting Rights exercised on the resolution.
- 16.30 Subject to this **Clause 16**, on a show of hands and on a poll, every Member present at a Meeting shall be entitled to 1 (one) vote.
- 16.31 The Members shall endeavour to reach consensus on all matters to be decided at a Members' Meeting.
- 16.32 Any Member may require that a minority view or dissenting vote be recorded in the minutes of the Members' Meeting, required to be kept in terms of this MOI.
- 16.33 No form appointing a proxy shall be valid after the expiration of 6 (six) months from the date when it was signed, unless the proxy form itself provides for a longer or shorter duration but it may be revoked at any time. The appointment is revocable unless the proxy appointment expressly states otherwise, and may be revoked by cancelling it in writing, or making a later inconsistent appointment of a proxy, and delivering a copy of the revocation instrument to the proxy, and to the Company. The appointment is suspended at any time and to the extent that the Member entitled to vote chooses to act directly and in person in the Exercise of any rights as a member entitled to vote.
- 16.34 The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarial certified copy of such power or authority shall be delivered to the Company up to immediately prior to the Members' Meeting,

before the proxy or representative of a Member exercises any rights of the Members entitled to vote at a Members' Meeting.

- 16.35 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or mental disorder of the principal or revocation of the instrument of proxy or of the authority under which the instrument of proxy was executed, provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the Company at its Registered Office before the commencement of the Members' Meeting or adjourned Members' Meeting at which the instrument of proxy is used.
- 16.36 Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form. The Company shall supply a generally standard form of proxy upon request by a Member entitled to vote.
- 16.37 If a proxy form is received duly signed but with no indication as to how the person named therein should vote on any issue, the proxy may vote or abstain from voting as she/he/it sees fit unless the proxy form indicates otherwise

17 BUSINESS OF THE COMPANY AND POWERS OF DIRECTORS

- 17.1 The business of the Company shall be managed by a BoD who are not connected in relation to each other, save as provided herein and who may exercise all such powers of the Company as are not by the Act or by this MOI required to be exercised by the Company in general meeting, and subject to this MOI, and to the provisions of the Act, and to such regulations as may be framed by the BoD and approved by the Company in general meeting, and which are not inconsistent with this MOI.
- 17.2 No regulation made by the BoD shall invalidate any prior act of the executive Directors, which would have been valid if that regulation had not been made.
- 17.3 The BOD may from time to time entrust to and confer upon duly contracted executive officers for a specified time, the powers vested in them as they may consider fit, and may confer such powers for such time and to be exercised for such objectives and upon such terms and with such restrictions as they may consider expedient; and they may confer such powers either collaterally or to the exclusion of, and in substitution for, all or any of the powers of the BoD, and may from time to

time revoke or vary any or all such powers. An appointed executive officer pursuant to the provisions hereof, shall not be regarded as an agent or delegate of the BOD and after powers have been conferred upon him/her by the BOD in terms hereof he shall be deemed to derive such powers directly from this Clause.

17.4 The BOD shall have the power from time to time to delegate, or to allocate, to anyone of their members or to any other person, whether in the Republic of South Africa or not, such powers as are vested in the BOD pursuant to the Statutes or under this MOI, as they may deem fit.

17.5 The BOD may delegate or allocate any of their powers to task teams or sub structures, consisting of such members or member of their registered membership as they consider fit, any committee so formed and shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the BOD. Save as aforesaid, the meetings and the proceedings of a task team consisting of more than one member shall be governed by the provisions of this MOI regulating the meetings and proceedings of BOD.

17.6 Notwithstanding the generality of the foregoing the BoD shall have the powers and duties as follows:

17.6.1 engage and dismiss any employee of the Company and to determine their designations and remuneration and to define their duties.

17.6.2 institute or defend legal proceedings in matters where a principle of law affecting all or a majority of Members is involved.

17.6.3 institute legal proceedings for the recovery of Membership subscriptions, from Members or moneys and/or assets due to the Company from other persons.

17.6.4 open and operate banking accounts in the name of the Company with registered financial institutions as defined in Section 1 of the Financial Institutions (Investment of Funds) Act, 1984.

17.6.5 invest funds of the Company in such a manner as it deems fit. Funds available for investment may only be invested with registered financial institutions as defined in Section 1 of the Financial Institutions (Investment of

Funds) Act, 1984, and in securities listed on a licensed stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), and to place any funds not immediately needed in an interest-bearing Trust account with an Attorney in terms of Section 78(2)(A) of the Attorneys Act No 53 of 1979.

17.6.5 enter into such agreements with other organizations similar in character and purpose to the Company as it may deem to be in the interests of Members.

The powers and duties of the office bearers who are not Directors shall be prescribed by the BoD from time to time.

17.7 The funds of the Company shall be applied by the BoD and subject to the BoD control from time to time to achieve the objectives of the Company.

17.8 All monies received by the Company shall be deposited into the Company's bank account.

17.9 Unauthorized expenditure means that the issue concerning the expenditure has been discussed in a constituted legal meeting and decisions and processes have been recorded in the minutes of the meeting.

17.10 Any expenditure not authorized by the BoD or the National Executive Committee duly empowered by the BoD and incurred by any Director or a Member without authority, shall visit personal liability on such Member.

18. APPOINTMENT/ELECTION OF DIRECTORS

18.1 Directors shall be the Group Secretary elected or ratified at the Company's Annual General meeting and Regional PtSA Chairmen as elected at PtSA Regional Annual General meetings.

18.2 The National Chairman (President) shall be the Regional Chairman of Region nominated by resolution of the Board of Directors and elected at a Company's Annual General meeting.

18.3 The Executive Directors of the Company shall be a minimum of 4 (four), representing those of the 6 (six) provincial PtSA regions and the National Chairman,

the Group Secretary and the National Treasure. This number shall increase in the event of the registration of any additional provincial PtSA regions. (Also Refer clause 18.8)

18.4 The Non-Executive Directors of the Company shall include the CEO of the PtSA Management Services and 2 (two) directors of PtSA Management Services.

18.5 Any failure by the Company at any time to have the minimum number of Directors does not limit or negate the authority of the BoD or invalidate anything done by the BoD or the Company.

18.6 Those Executive Directors, as representatives of their established region shall as a condition precedent to their appointment proceed with the following:

18.6.1 that their region is properly and legally governed by an AGM of its members, and meetings are recorded, using the PtSA MOI as the guidelines of their governance; and

18.6.2 their appointment by the regional office is duly recorded, qualified and certified with the names of the regional Executive Members and their alternates, after a duly conducted election process.

18.7 The term of office of the office bearers of the Company not in terms of the above deeming provision will be:

18.7.1 Executive Directors – 2 years, commencing on the date of their election by their respective constituencies and expiring on the date of the respective provincial PtSA AGM's There is no restriction to the re-election of any regional executive, as long as their election is conducted as per duly governance of their respective AGM.

18.8.2 Non-Executive Directors - Subject to ex-officio status

18.8 The outgoing chairman of PtSA shall become an ex officio director of PtSA on resolution of the Board of Directors subject to membership of PtSA.

18.9 The Company may, at any Meeting of Members, increase the number of Directors.

19.1 Executive Directors and non-executive Directors shall establish each regional nomination and election process and declare their outcome conclusive and final to the Company.

19.2 The appointment of the BoD shall be approved by the Company's AGM.

20 RESTRICTIONS ON OFFICE BEARERS

20.1 No person shall be appointed as a Director, if she/he is ineligible or disqualified and any such election shall be a nullity. A Person who is ineligible or disqualified must not consent to be appointed as a director nor act as a director. A person placed under probation by a Court must not serve as a director unless the Order of Court so permits.

20.2 No appointment of a Director shall take effect until he/she has delivered to the Company a written consent to serve.

21 CESSATION OF OFFICE AS DIRECTOR

21.1 A Director shall cease to hold office as such –

21.1.1 immediately when she/he becomes ineligible or disqualified or the BoD resolves to remove her/him on such basis, and in the latter case the Director has not, within the permitted period filed an application for review or has filed such an application but the Court has not yet confirmed the removal (during which period she/he shall be suspended);

21.1.2 when she/he dies.

21.1.3 when she/he resigns by written notice to the Company.

21.1.4 if the BoD determines that she/he has become incapacitated to the extent that such Director is unable to perform the functions of a Director, and is unlikely to regain that capacity within a reasonable time, and the Director has not within the permitted period filed an application for review or has filed such an application, but the Court has not yet confirmed the removal (during which period she/he shall be suspended);

- 21.1.5 if she/he is declared delinquent by a Court or placed on probation under conditions that are inconsistent with continuing to be a Director of the Company.
- 21.1.6 if she/he is removed by an Ordinary Resolution of the Category of Members that elected her/him to the BoD.
- 21.1.7 if she/he is removed by resolution of the BoD for being negligent or derelict in performing the functions of a Director, and the Director has not within the permitted period filed an application for review or has filed such an application, but the court has not yet confirmed the removal (during which period she/he shall be suspended);
- 21.1.8 she/he files a petition for the surrender of her/his estate or an application for an administration order, or if she/he commits an act of insolvency as defined in the insolvency law for the time being in force, or if she/he makes any arrangement or composition with her/his creditors generally.
- 21.1.9 if she/he is absent without permission for more than 6 (six) months from BoD meetings held during that period.
- 21.1.10 if without consent of the Company by Ordinary Resolution she/he holds any other office of profit under the Company except that of chief executive officer or executive manager; or
- 21.1.11 if she/he has a personal financial interest in respect of any contract with the Company and fails to declare his/her interest and the nature thereof in the manner required by the Companies Act; or
- 21.1.12 she/he is otherwise removed in accordance with any provisions of this MOI.

22 RETIREMENT OF DIRECTORS IN ROTATION

- 22.1 At each Annual Members' Meeting, save for the chief executive officer, all of the BoD shall retire from office.
- 22.2 The Directors retiring in terms of **Clause 22.1** shall be eligible for re-election. No person other than a Director retiring at the Annual Members' Meeting shall be eligible for election to the office of a Director at any Annual Members' Meeting unless, not less than 7 (seven) days, nor more than 21 (twenty one) days before the day appointed for the Annual Members' Meeting, there shall have been notice in

writing to the BoD, by a Category entitled to elect Directors, of the intention of that Category to elect such person and also notice in writing, signed by the person to be proposed, of her/his willingness to be elected. If at any Annual Members' Meeting, the place of any retiring Director is not filled, he/she shall, if willing, continue in office until the dissolution of the Annual Members' Meeting in the next year, and so on from year to year until his/her place is filled, continue in office, unless it shall be determined at such Annual Members' Meeting not to fill such vacancy.

23 REMUNERATION AND EXPENSES

23.1 The Company may pay or grant any type of remuneration contemplated in Sections 30(6)(b) to (g) of the Companies Act to the chief executive officer.

23.2 The Company may also pay for any reasonable travelling and other expenses in accordance with the approved annual budget, properly and necessarily incurred by the Directors and any other person mandated in terms of this MOI to represent the Company, in or about the performance of their duties as representatives of the Company, as may further be set out in the policies of the BoD, provided that the Company shall pay any third party service providers directly and shall not reimburse any Director, or any other person mandated to represent the Company for expenses so incurred.

24 FINANCIAL ASSISTANCE FOR DIRECTORS, AND PRESCRIBED OFFICERS AND THEIR RELATED AND INTER-RELATED PARTIES

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, Prescribed Officer of the Company or of a related or inter-related company, or to a person related to any such Director, or Prescribed Officer, other than a transaction if it –

24.1 is in the ordinary course of the Company's business and for fair value.

24.2 constitutes an accountable advance to meet –

24.2.1 legal expenses in relation to a matter concerning the Company; or

24.2.2 anticipated expenses to be incurred by the Person on behalf of the Company.

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

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

25 **GENERAL POWERS AND DUTIES OF DIRECTORS**

- 25.1 The BoD may establish and maintain any non-contributory or contributory pension, superannuation, provident and benefit funds for the benefit of and give pensions, gratuities and allowances to and make payments for or towards the insurance of any persons who are employees of the Company.
- 25.2 The BoD may, from time to time, appoint a suitable candidate to the office of chief executive officer, who shall serve as a Director on the BoD, for such period and at such remuneration (whether by way of salary or commission, or partly in one way and partly in another) and generally on such terms they may think fit, and it may be made a term of her/his appointment that she/he be paid a pension, gratuity or other benefit on her/his retirement from office.
- 25.3 The BoD may, from time to time, entrust to and confer upon a chief executive officer or other executive manager for the time being, such of the powers vested in the BoD as they may think fit, and may confer such powers for such time and to be exercised for such objects and upon such terms and with such restrictions as they may think expedient; and they may confer such powers either collaterally or to the exclusion of, and in substitution for, all or any of the powers of the BoD, and may from time to time revoke or vary all or any of such powers. A chief executive officer, or other executive manager appointed pursuant to the provisions hereof, shall not be regarded as an agent or delegate of the BoD and after powers have been conferred upon her/him by the BoD in terms hereof she/he shall be deemed to derive such powers directly from this Clause.
- 25.4 The BoD may revoke any appointment of the chief executive officer subject to the terms of any agreement entered into in any particular case and may from time-to-time revoke or vary any powers or authority conferred on the chief executive officer in terms of **Clauses 25.2 and 25.3**.
- 25.5 The BoD may not make any decisions concerning the funding of the Company, without first following an inclusive and consultative process that is endorsed by its Members by Ordinary Resolution.

- 25.6 Without derogating from the powers of the BoD, but subject to the furtherance of the Company's Objects set out in **Clause 4** and if provided for in the Company's annual budget and business plan (where applicable), the BoD on behalf of the Company may –
- 25.6.1 purchase, lease or acquire in any way land, shares, debentures and every other kind or description of movable and immovable property.
 - 25.6.2 manage, insure, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with its undertaking or all or any part of its property and assets.
 - 25.6.3 apply for, purchase or by any other means acquire, protect, prolong, and renew any patents, patent rights, licenses, trademarks, concessions or other rights and deal with or alienate them as provided in **Clause 25.6.25.6.1** hereof.
 - 25.6.4 subject to any restrictions provided for in this MOI, borrow money.
 - 25.6.5 secure the payment of monies borrowed in any manner including the mortgaging and pledging of property and, without detracting from the generality thereof.
 - 25.6.6 invest money in any manner, at any registered bank, building society or other financial institution and in government securities.
 - 25.6.7 open and operate banking accounts.
 - 25.6.8 make, draw, issue, execute, accept, endorse and discount promissory notes, bills of exchange and any other kind of negotiable or transferable instruments.
 - 25.6.9 act as principals, agents, contractors or trustees.
 - 25.6.10 pay salaries, wages, gratuities and pensions to officers and employees.
 - 25.6.11 engage in fund-raising activities.
- 25.7 For banking purposes, 2 (two) Directors, authorised by the BoD, will be required to sign all documents, provided that 1 (one) Director is a director responsible for the finances of the Company and the other Director was elected to the BoD by a

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Category of Members that did not also elect the Director responsible for the finances of the Company.

26 PERSONAL FINANCIAL INTERESTS OF DIRECTORS

26.1 For the purposes of this **Clause 26**

26.1.1 "**Director**" includes a Prescribed Officer, and a person who is a member of a statutory committee or a committee of the BoD, irrespective of whether or not the person is also a member of the BoD; and

26.1.2 "**Related Person**" also includes any other company of which the Director or a Related Person is also a director, or a Close Corporation of which the Director or a Related Person is a member.

26.2 The remainder of this **Clause 26** shall not apply to a Director in respect of a decision that may generally affect

26.2.1 all of the BoD in their capacity as Directors; or

26.2.2 a class of persons, despite the fact that the Director is one member of that class of persons, unless the only members of the class are the Director or Persons Related or Inter-Related to the Director. In such event the Director shall be treated as not having a personal financial interest, unless the class is predominantly made up of BoD and persons related or inter-related to such BoD and in the circumstances the conflict of the Director requires the provisions of this **Clause 26** to apply.

26.3 At any time, a director may disclose any personal financial interest in advance, by delivering to the BoD a notice in writing setting out the nature and extent of that personal financial interest, to be used generally by the Company until changed or withdrawn by further written notice from that Director.

26.4 If, in the reasonable view of the other non-conflicted Directors, a director or the related person in respect of such Director acts in competition with the Company relating to the matter to be considered at the meeting of the BoD, the Director shall only be entitled to such information concerning the matter to be considered at the

meeting of the BoD as shall be necessary to enable the Director to identify that such personal financial interest exists or continues to exist.

26.5 If a director has a personal financial interest in respect of a matter to be considered at a meeting of the BoD, or knows that a related person has a personal financial interest in the matter, the Director:

26.5.1 must disclose the personal financial interest and its general nature before the matter is considered at the Meeting.

26.5.2 must disclose to the Meeting any material information relating to the matter and known to the Director.

26.5.3 may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors.

26.5.4 if present at the meeting, must leave the meeting immediately after making any disclosure contemplated in **Clauses 26.5.2 or 26.5.3**;

26.5.5 must not take part in the consideration of the matter, except to the extent contemplated in **Clauses 26.5.2 or 26.5.3**;

26.5.6 while absent from the meeting in terms of this **Clause 26.5**:

26.5.6.1 is to be regarded as being present at the Meeting for the purpose of determining whether sufficient Directors are present to constitute a quorum; and

26.5.6.2 is not to be regarded as being present at the Meeting for the purpose of determining whether a resolution has sufficient support to be adopted; and

26.5.7 must not execute any document on behalf of the Company in relation to the matter unless specifically requested or directed to do so by the BoD.

26.6 If a director acquires a personal financial interest in an agreement or other matter in which the Company has a material interest or knows that a related person has acquired a personal financial interest in the matter, after the agreement or other matter has been approved by the Company, the Director must promptly disclose to the BoD, the nature and extent of that personal financial interest, and the material

circumstances relating to the Director or Related Person's acquisition of that personal financial interest.

26.7A decision by the BoD, or a transaction or agreement approved by the BoD, is valid, despite any personal financial interest of a director or person related to the Director, only if –

26.7.1 it was approved following the disclosure of the Personal Financial Interest in the manner contemplated in this **Clause 26** or

26.7.2 despite having been approved without disclosure of that personal financial interest, it has been ratified by an Ordinary Resolution following disclosure of that personal financial interest or has been declared to be valid in terms of Section 75(8) of the Companies Act by a Court.

27 PROCEEDINGS OF DIRECTORS

27.1 A Director authorised by the BoD –

27.1.1 may, at any time, summon a meeting of the BoD; and

27.1.2 must call a meeting of the BoD if required to do so by at least 2 (two) Directors.

27.2 The BoD may determine what period of notice shall be given of meetings of the BoD and may determine the means of giving such notice which may include telephone, telefax or Electronic Communication. It shall be necessary to give notice of a meeting of the BoD to all Directors even those for the time being absent from South Africa.

27.3 If all of the BoD –

27.3.1 acknowledge actual receipt of the notice.

27.3.2 are present at a meeting of the BoD; or

27.3.3 waive notice of the meeting,

the meeting may proceed even if the Company failed to give the required notice of that meeting, or there was a defect in the giving of the notice.

27.4 The BoD may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

27.5 Unless otherwise resolved by the BoD, all their Meetings shall be held in the city or town where the Company's Registered Office is for the time being situated, provided that where possible, the meetings are rotated vis a vis their venues, to accommodate the majority of representatives to attend the meeting. A Meeting of BoD may be conducted by Electronic Communication and/or one or more Directors may participate in a meeting of the BoD 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.

27.6 The quorum for a Directors' Meeting shall be a majority of the Directors, provided that either the chief executive officer or the Chairperson are present at the Meeting. A meeting of the BoD will be fully constituted if 2 (two) Executive Directors and 1 (one) Non-Executive Director is present, providing notice of the meeting shall have been given by the Secretary of the Company under the instructions of the Chairman or Vice-Chairman

27.7 If at any meeting the Chairperson is not present within 15 (fifteen) minutes after the time appointed for holding it, the Directors present may choose one of their number to be chairperson of the Meeting.

27.8 Each Director has 1 (one) vote on a matter before the BoD and a majority of the votes cast on a resolution is sufficient to approve that resolution.

27.9 In the case of a tied vote, the Chairperson may cast a deciding vote.

27.10 The Company must keep minutes of the meetings of the BoD, and any BoD and statutory committees, and include in the minutes –

27.10.1 any declaration given by notice or made by a director as required by **Clause 26**

27.10.2 every resolution adopted by the BoD.

27.11 Resolutions adopted by the BoD –

27.11.1 must be dated and sequentially numbered; and

27.11.2 are effective as of the date of the resolution, unless the resolution states otherwise.

27.12 Any minutes of a meeting, or a resolution, signed by the chair of the meeting, or by the chair of the next meeting of the BoD, are/is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be, without the necessity for further proof of the facts stated.

27.13 A Round Robin Resolution of the BoD shall be as valid and effectual as if it had been passed at a Meeting of the BoD duly called and constituted, provided that each Director who is able to receive notice, has received notice of the matter to be decided upon.

27.14 The BoD may whenever deem appropriate, convene working meetings or workshops, to address specific and focus issues and subjects.

28 COMMITTEES

28.1 The BoD may appoint any number of committees and delegate to such committees any authority of the BoD. The Members of committees may include persons who are not Directors, provided that such persons are not ineligible or disqualified to be Directors, and that committee members who are not Directors shall not be entitled to vote at committee meetings.

28.2 No person shall be appointed as a member of a committee, if she/he is ineligible or disqualified and any such appointment shall be a nullity. A person who is ineligible or disqualified must not consent to be appointed as a member of a committee nor act as such a member. A person placed under probation by a Court must not serve as a member of a committee unless the Order of Court so permits.

28.3 In addition to the requirements of the Companies Act for a person to serve as a member of a BoD or committee, every Member of a committee must be a senior representative of a member.

28.4 A member of a committee shall cease to hold office as such immediately when she/he becomes ineligible or disqualified in terms of the companies Act or ceases hold office for any reason.

28.5 Committees of the BoD may consult with or receive advice from any person.

28.6 Meetings and other proceedings of a committee consisting of more than 1 (one) member shall be governed *mutatis mutandis* by the provisions of this MOI regulating the meetings and proceedings of Directors.

28.7 The Committees where applicable, shall have the following functions –

28.7.1 to monitor the Company's activities, having regard to any relevant legislation, other legal requirements or prevailing codes of best practice–

28.7.2 to draw matters within its mandate to the attention of the BOD as occasion requires.

28.7.3 to report, through one of its members, to the Members at the Annual Members' Meeting on the matters within its mandate.

28.8 The committees shall execute the core functions of the Company, through powers delegated to them by the BoD, and shall report to the BOD, as required by the BoD. In addition, each of the committees shall present a report on its activities at each Annual Members' Meeting

28.9 The quorum for a meeting of a committee shall be the majority of the members of that committee.

28.10 The committees may appoint task teams to deal with issues requiring specific expertise and delegate to such task teams any of their powers and functions. Task teams may consist of representatives of Members, employees of the Company and independent specialists. Each task team shall appoint one of their number to act as chairperson of that task team and such chairperson shall be obliged to report to the relevant committee on a regular basis.

29 AMENDMENTS TO THE MOI

29.1 Subject to the provisions of the Companies Act, save for –

29.1.1 correcting errors substantiated as such from objective evidence or which are self-evident errors (including, but without limitation *eiusdem*

generis, spelling, punctuation, reference, grammar or similar defects) in the MOI, which the BoD is empowered to do; and

29.1.2 amendments of the MOI effected in compliance with a court order in the manner contemplated in Section 16(1)(a), read with Section 16(4) of the Companies Act,

all other amendments of the MOI shall be effected in accordance with Section 16(1) of the Companies Act. The BoD shall publish a copy of any such correction effected by the BoD on the Company's web site, if any.

30 THE MAKING OF RULES

30.1 The BoD shall have the capacity to make, amend or repeal any Rules relating to the governance of the Company, as contemplated in Sections 15(3) to (5) of the Companies Act.

30.2 Unless the amendment is one to correct self-evident errors (including, but without limitation *eiusdem generis*, spelling, punctuation, reference, grammar or similar defects), the BoD shall publish a copy of any Rules which it may make for the Company or which it may amend by giving notice thereof in Writing to the Members or by such other method of publication as the BoD may determine.

31 FINANCIAL YEAR

The financial year end of the Company is the last day of March.

32 ACCOUNTING RECORDS AND FINANCIAL STATEMENTS

32.1 The Company shall maintain the necessary Accounting Records which shall be accessible from its Registered Office.

32.2 The Company must maintain adequate records of all revenue received from donations, grants and Members' fees, or in terms of any funding contracts or arrangements with any party or Person for a period of at least 7 (seven) years.

32.3 The Company shall prepare its Financial Statements in accordance with the International Financial Reporting Standards or, if it qualifies, in accordance with the International Financial Reporting Standards for Small and Medium Enterprises, as adopted by the International Accounting Standards Board or its successor body, or,

if it qualifies in terms of the Regulations, in accordance with the South African Statements of Generally Accepted Accounting Practice as adopted from time to time by the Accounting Practices Board or its successor body, or, if it qualifies in terms of the Regulations, in accordance with such standard as it shall determine, and shall have its annual Financial Statements audited.

32.4 The BoD shall in respect of every financial year of the Company cause to be made out Annual Financial Statements in accordance with the Act and shall lay them before the Annual General Meeting of the Company in respect of that year.

32.5 A copy of the Annual Financial Statements which are to be laid before the Company in an Annual General Meeting, shall not be less than 21 (twenty-one) days before the date of the meeting, be sent to every member of the Company. Provided, that this Clause shall not require a copy of those documents to be sent to any person, the address of whom the Company is not aware.

32.6 The BoD shall from time to time determine at what times and places (save in the case of Accounting Records which shall be accessible from the Registered Office) and under what conditions, subject to the requirements of the Regulations, the Members are entitled to inspect and take copies of –

32.6.1 the Mol.

32.6.2 amendments to the Mol.

32.6.3 records in respect of the BoD.

32.6.4 Accounting Records required to be maintained by the Company.

32.6.5 reports to annual Members' Meetings.

32.6.6 annual Financial Statements.

32.6.7 notices and minutes of Members' Meetings.

32.6.8 communications generally to Members.

32.6.9 the Membership Register; and

32.6.10 Rules, if any.

- 32.7 Apart from the Members, no other person shall be entitled to inspect any of the documents of the Company (other than the Membership Register) unless expressly authorised by the BoD.

The Company shall notify the Members of the publication of any Annual Financial Statements of the Company, setting out the steps required to obtain a copy of those Financial Statements. If a Member demands a copy of the annual Financial Statements, the Company shall make same available to such Member free of charge.

33 AUDITOR

- 33.1 The Company shall appoint an Auditor upon its incorporation and at its Annual Members' Meeting provided that if an Annual Members' Meeting does not appoint or reappoint an Auditor, the BoD must fill the vacancy in the office in terms of the procedure contemplated in Section 91 of the Companies Act within 40 (forty) Business Days after the date of such Members' Meeting. A retiring Auditor may be automatically re-appointed at an annual Members' Meeting without any resolution being passed, unless –

33.1.1 the retiring Auditor is –

33.1.1.1 no longer qualified for appointment.

33.1.1.2 no longer willing to accept the appointment, and has so notified the Company; or

33.1.1.3 required to cease serving as Auditor, in terms of Section 92 of the Companies Act.

33.1.2 the Company has notice of an intended resolution to appoint some other Person or Persons in place of the retiring Auditor.

- 33.2 Any firm of auditors appointed by the Company as the Auditor shall ensure that the Individual responsible for performing the Audit must comply with the requirements of Section 90(2) of the Companies Act, provided that –

33.2.1 the same Individual may not serve as the Auditor or designated Auditor for more than 5 (five) consecutive financial years.

33.2.2 if an Individual has served as the Auditor or designated Auditor for 2 (two) or more consecutive financial years and then ceases to be the Auditor or designated Auditor, the Individual may not be appointed again as the Auditor or designated Auditor until after the expiry of at least 2 (two) further financial years.

33.3 The Auditor –

33.3.1 has the right of access at all times to the Accounting Records and all books and documents of the Company and is entitled to require from the BoD or Prescribed Officers any information and explanations necessary for the performance of the Auditor's duties.

33.3.2 if the Company is a Holding Company, has the right of access to all current and former Financial Statements of any Subsidiary and is entitled to require from the BoD or Prescribed Officers of the Company or Subsidiary any information and explanations in connection with any such statements and in connection with the Accounting Records, books and documents of the Subsidiary as necessary for the performance of the Auditor's duties.

33.3.3 is entitled to –

33.3.3.1 attend any Members' Meeting.

33.3.3.2 receive all notices of and other communications relating to any Members' Meeting; and

33.3.3.3 be heard at any Members' Meeting on any part of the business of the meeting that concerns the Auditor's duties or functions.

33.3.4 may not perform any services for the Company that would place the Auditor in a conflict of interest as prescribed or determined by the Independent Regulatory Board for Auditors in terms of Section 44(6) of the Auditing Profession Act.

33.4 If a vacancy arises in the office of Auditor, the Board –

33.4.1 must appoint a new Auditor within 40 (forty) Business Days, if there was only 1 (one) incumbent Auditor; and

33.4.2 may appoint a new Auditor at any time, if there was more than 1 (one) incumbent, but while any such vacancy continues, the surviving or continuing Auditor may act as Auditor of the Company.

If, by comparison with the membership of a firm at the time of its latest appointment, less than $\frac{1}{2}$ (one half) of the members remain after a change in the composition of the members, that change constitutes the resignation of the firm as Auditor of the Company, giving rise to a vacancy.

33.5 The Company's auditors shall be instructed to prepare and/or inspect:

33.5.1 a statement reflecting the income and expenditure of the Company.

33.5.2 a statement reflecting the assets and liabilities of the Company; and

33.5.3 a report stating whether:

33.5.3.1 they have satisfied themselves of the existence of the securities and have examined the books of account and records of the Company.

33.5.3.2 proper books of account have been kept.

33.5.3.3 they have obtained all the information and explanations required.

33.5.3.4 in their opinion the statement of income and expenditure and the balance sheet audited by them have been properly drawn up so as to exhibit a true and correct reflecting of the state of affairs of the Company according to the best of their knowledge and according to the explanations given to them and as shows by the books of the organization as at the date of the balance sheet.

33.5.3.5 in their opinion the provisions of these Articles in so far as they relate to financial affairs, have been complied with.

33.6 The statements and report referred to in this **Clause 33** shall on completion, be signed by at least 2 (two) of the Executive Directors, after being tabled at the Annual General Meeting of the Company.

34 BUDGET AND BUSINESS PLAN

34.1 The BoD shall cause a budget and a business plan to be prepared for the Company on an annual basis, which must be presented to and approved by the BoD, with or

without amendments, at least 2 (two) months prior to the Company's financial year end. Prior to approving the annual budget and business plan, each Director elected by a Category of Members shall consult with Members of the Category that elected him.

34.2 The annual budget shall consist of the general day-to-day operating expenses of the Company, as well as any anticipated expenses for special projects.

34.3 Once the budget and business plan for the Company has been approved by the BOD, the BOD shall deliver a copy of the budget and business plan to each Member of the Company.

35 COMMUNICATIONS AND REPRESENTATION

The Company shall at all times comply with the provisions relating to –

35.1 the representation of the Company on outside bodies.

35.2 the selection of persons to represent the Company at outside sponsored events.

35.3 the selection of delegates from the Company to attend and participate in high level meetings or events where the Company has a limited number of seats, and the Company's media interaction.

36 PRESCRIBED OFFICERS

36.1 No person who is ineligible or disqualified shall perform any function that has been designated by the Minister in terms of Section 66(10) of the Companies Act to constitute a prescribed office. A person who is ineligible or disqualified must not consent to be appointed to an office or undertake any functions that would result in her/him being a Prescribed Officer nor act in such office nor undertake any such functions. A person placed under probation by a Court must not consent to be appointed to an office or undertake any functions which would result in her/him being a Prescribed Officer nor act in such office nor undertake any such functions unless the Order of Court so permits.

36.2 A Prescribed Officer shall cease to perform any function that has been designated by the Minister in terms of Section 66(10) of the Companies Act to constitute a prescribed office immediately when she/he becomes ineligible or disqualified in terms of the Companies Act.

37 APPOINTMENT OF COMPANY SECRETARY

37.1 The BOD may appoint a Company Secretary from time to time, if so required to assist the National Secretary and National Treasurer. In the event that the BoD appoint a Company Secretary, such Company Secretary –

37.1.1 shall be a permanent resident of South Africa and remain so while serving as Company Secretary; and

37.1.2 shall have the requisite knowledge of, or experience in, relevant laws; and

37.1.3 may be a Juristic Person subject to the following –

37.1.3.1 every employee of that Juristic Person who provides company secretary services, or partner and employee of that partnership, as the case may be, is not ineligible or disqualified.

37.1.3.2 at least 1 (one) employee of that Juristic Person, or one partner or employee of that partnership, as the case may be, satisfies the requirements in **Clauses 37.1.1** and **37.1.2**.

37.2 The BoD may fill a vacancy arising in the office of Company Secretary by appointing a Person whom the BoD consider having the requisite knowledge and experience. A change in the membership of a Juristic Person or partnership that holds office as Company Secretary does not constitute a vacancy in the office of Company Secretary, if the Juristic Person or partnership continues to satisfy the requirements of **Clause 37.1.2**.

37.3 If at any time a Juristic Person or partnership holds office as Company Secretary of the Company –

37.3.1 the Juristic Person or partnership must immediately notify the BoD if the Juristic Person or partnership no longer satisfies the requirements of **Clause 37.1.3**, and is regarded to have resigned as Company Secretary upon giving that notice to the Company.

37.3.2 the Company is entitled to assume that the Juristic Person or partnership satisfies the requirements of **Clause 37.1.3**, until the Company has received a notice contemplated in **Clause 37.3.1**; and

37.3.3 any action taken by the Juristic Person or partnership in performance of its functions as Company Secretary is not invalidated, merely because the

Juristic Person or partnership had ceased to satisfy the requirements of **Clause 37.1.3** at the time of that action.

38 LOSS OF DOCUMENTS

The Company shall not be responsible for the loss in transmission of any document sent through the post either to the registered address of any Member or to any other Address requested by the Member.

39 NOTICES

39.1 The Company may give notices, documents, records or notices of availability of the foregoing by personal delivery to the Member or by sending them prepaid through the post or by transmitting them by telegram, telex or fax or by Electronic Communication to such Person's last known address. The Company must give notice of –

39.1.1 any Members' Meeting to every Member of the Company; and

39.1.2 the availability of a document, record or statement to the Members.

39.2 Any Member which has furnished an Electronic Address to the Company, by doing so –

39.2.1 authorises the Company to use Electronic Communication to give notices, documents, records or statements or notices of availability of the foregoing to it; and

39.2.2 confirms that same can conveniently be printed by the Member within a reasonable time and at a reasonable cost.

39.3 Any notice required to be given by the Company to the Members and not expressly prohibiting the provisions of this Clause from applying, shall be sufficiently given (subject to giving a notice of availability in accordance with **Clause 39.1** or **39.2**, if given by posting it on the Company's web site, if any, until at least the date when the event to which the notice refers occurs.

39.4 A Member shall be bound by every notice.

39.5 The Company shall not be bound to use any method of giving notice,

documents, records or statements or notices of availability of the foregoing, contemplated in the Regulations in respect of which provision is made for deemed delivery, but if the Company does use such a method, the notice, document, record or statement or notice of availability of the foregoing shall be deemed to be Delivered on the day determined in accordance with the Regulations (which is included as **Annexure C** for easy reference but which does not form part of this MOI for purposes of interpretation). In any other case, when a given number of days' notice or notice extending over any period is required to be given (which are not Business Days which shall be calculated in accordance with **Clause 2**), the provisions of **Clause 2** shall also be applied.

39.6 As regards the signature of an Electronic Communication by a Member, it shall be in such form as the BoD may specify to demonstrate that the Electronic Communication is genuine, or failing any such specification by the BoD, it shall be constituted by the Member indicating in the Electronic Communication that it is the Member's intention to use the Electronic Communication as the medium to indicate the Member's approval of the information in, or the Member's signature of the document in or attached to, the Electronic Communication which contains the name of the Member sending it in the body of the Electronic Communication.

40 INDEMNITY

40.1 For the purposes of this clause, "**Director**" includes a former Director, a Prescribed Officer, a person who is a member of a committee of the BoD, irrespective of whether or not the person is also a Member of the BoD.

40.2 The Company may -

40.2.1 not directly or indirectly pay any fine that may be imposed on a director, or on a director of a related company, as a consequence of that Director having been convicted of an offence in terms of any national legislation, unless that conviction was based on strict liability.

40.2.2 advance expenses to a director to defend litigation in any proceedings arising out of the Director's service to the Company; and

40.2.3 directly or indirectly indemnify a director for –

40.2.3.1 any liability, other than in respect of -

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40.2.3.2 any liability arising in terms of Sections 77(3)(a), (b) or (c) of the Companies Act or from wilful misconduct or wilful breach of trust on the part of the Director; or

40.2.3.3 any fine contemplated in **Clause 40.2.1**.

40.2.3.4 any expenses contemplated in **Clause 40.2.2**,

irrespective of whether it has advanced those expenses, if the proceedings –

40.2.3.4.1 are abandoned or exculpate the Director; or

40.2.3.4.2 arise in respect of any other liability for which the Company may indemnify the Director.

40.3 The Company may purchase insurance to protect -

40.3.1 a director against any liability or expenses for which the Company is permitted to indemnify a director, as contemplated in **Clause 40.2.3**; or

40.3.2 the Company against any contingency including but not limited to -

40.3.2.1 any expenses:

40.3.2.1.1 that the Company is permitted to advance in accordance with **Clause 40.2.2**; or

40.3.2.1.2 for which the Company is permitted to indemnify a director in accordance with **Clause 40.2.3**; or

40.3.2.2 any liability for which the Company is permitted to indemnify a director in accordance with **Clause 40.2.3**.

40.4 The Company is entitled to claim restitution from a Director of the Company and from a Director of a related company for any money paid directly or indirectly by the Company to or on behalf of that Director in any manner inconsistent with Section 78 of the Companies Act.

41 MINUTES AND RECORDS

41.1 The Company shall keep minutes of every Members' Meeting, meeting of the

BoD and of all the proceedings of meetings of any committee appointed in terms of **Clause 28.78**

41.2 The company secretary (or any other person responsible for the efficient administration of the Company and compliance by the Company with statutory and regulatory requirements) shall table the minutes of each meeting at the next Members' Meeting, BoD meeting or committee meeting, as the case may be, unless such minutes were previously circulated to all persons that participated in the meeting for comment and approval.

41.3 The company secretary (or any other person responsible for the efficient administration of the Company and compliance by the Company with statutory and regulatory requirements) shall maintain records of all correspondence and any transactions of the Company.

42 AUTHENTICATION OF DOCUMENTS

42.1 Any Director or the company secretary (if a company secretary has been appointed) or any person appointed by the BoD for this purpose shall have power to authenticate any documents affecting the constitution of the Company and any resolutions passed by the Company or the BoD, and any books, records, documents and accounts relating to the business of the Company, and to certify copies thereof or extracts therefrom as true copies or extracts. Where any books, records, documents or accounts are elsewhere than at the Company's Registered Office, the local manager or other officer of the Company having the custody thereof shall be deemed to be the person appointed by the BoD aforesaid.

42.2 A document purporting to be a copy of a resolution of the BoD or an extract from the minutes of a meeting of the BoD which is certified as such in accordance with the provisions of **Clause 42.1** shall be conclusive evidence in favor of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that such extract is a true and accurate record of a duly constituted meeting of the BoD.

43 FUNDAMENTAL TRANSACTIONS AND CONVERSION

43.1 The Company may not –

43.1.1 amalgamate or merge with, or convert to, a profit company; or

43.1.2 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 disposition of an asset occurs in the ordinary course of the activities of the Company.

43.2 Any proposal to –

43.2.1 dispose of all or the greater part of its assets or undertaking; or

43.2.2 amalgamate or merge with another Non-Profit Company,

must be submitted to the Members for approval, in a manner comparable to that required of profit companies in accordance with Sections 112 and 113 of the Companies Act, respectively.

43.3 Sections 115 and 116 of the Companies Act, read with the changes required by the contexts apply with respect to the approval of a proposal contemplated in **Clause 43.2.**

43.4 The Company shall comply with such reporting requirements as may be prescribed by the Commissioner for Inland Revenue from time to time.

43.5 The Company shall submit any amendment to this MOI, or any other document evidencing the status of the Company to the Commissioner within 30 days of such amendment.

43.6 The Company is not knowingly and will not knowingly become a party to or permit itself to be utilized as part of an impermissible avoidance arrangement contemplated in Part 11A of Chapter 3, or transaction, operation or scheme contemplated in Section 103(5) of the Income Tax Act.

44 WINDING UP OR DISSOLUTION

44.1 Notwithstanding any provision in any law or agreement to the contrary, upon the winding-up or dissolution of the Company, after making provision for the costs of dissolving the Company, the liquidator shall distribute the net value of the Company to any similar non-profit entity which has been approved by the Commissioner of the South African Revenue Service in terms of Section 30B of the Income Tax Act or any institution, board, voluntary association or body which is exempt from tax under the provisions of Section 10(1)(cA)(i) of the aforementioned Act, which has as its

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sole object the carrying on of any common interest activity and which has similar objects to those of the Company, alternatively, to the Government, in the National, Provincial, or Local Government sphere. .

44.2 The receiver of the Company's net assets in the event of liquidation shall be determined by the Members immediately before the dissolution of the Company or, failing such determination, by Court Order.

Secretary General

National Chairman

DRAFT 5 DEC 2024

Annexure A – Definitions in the Companies Act

"**accounting records**" means information in written or electronic form concerning the financial affairs of a company as required in terms of this Act including, but not limited to, purchase and sales records, general and subsidiary ledgers and other documents and books used in the preparation of financial statements;¹

"**alternate director**" means a person elected or appointed to serve, as the occasion requires, as a member of the board of a company in substitution for a particular elected or appointed director of that company;

"**audit**" has the meaning set out in the Auditing Profession Act, but does not include an "independent review" of annual financial statements, as contemplated in section 30(2)(b)(ii)(bb);

"**Auditing Profession Act**" means the Auditing Profession Act, 2005 (Act No. 26 of 2005);

"**auditor**" has the meaning set out in the Auditing Profession Act;

"**board**" means the board of directors of a company;

"**business days**" has the meaning determined in accordance with section 5(3);

"**Commission**" means the Companies and Intellectual Property Commission established by section 185;

"**Commissioner**" means the person appointed to or acting in the office of that name, as contemplated in section 189;

"**company**" means a juristic person incorporated in terms of this Act, a domesticated company, or a juristic person that, immediately before the effective date —

- (a) was registered in terms of the —
 - (i) Companies Act, 1973 (Act No. 61 of 1973), other than as an external company as defined in that Act; or
 - (ii) Close Corporations Act, 1984 (Act No. 69 of 1984), if it has subsequently been converted in terms of Schedule 2;
- (b) was in existence and recognized as an 'existing company' in terms of the Companies Act, 1973 (Act No. 61 of 1973); or
- (c) was deregistered in terms of the Companies Act, 1973 (Act No. 61 of 1973), and has subsequently been re-registered in terms of this Act;

"**director**" means a member of the board of a company, as contemplated in section 66, or an alternate director of a company and includes any person occupying the position of a director or alternative director, by whatever name designated;

"**electronic communication**" has the meaning set out in section 1 of the Electronic Communications and Transactions Act;

"**Electronic Communications and Transactions Act**" means the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

"**exercise**", when used in relation to voting rights, includes voting by proxy, nominee, trustee or other person in a similar capacity;

"**financial statement**" includes—

- (a) annual financial statements and provisional annual financial statements;
- (b) interim or preliminary reports;
- (c) group and consolidated financial statements in the case of a group of companies; and

¹ Regulation 25(3) contains requirements as to what the accounting records must include.

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(d) financial information in a circular, prospectus or provisional announcement of results, that an actual or prospective creditor or holder of the company's securities, or the Commission, Panel or other regulatory authority, may reasonably be expected to rely on;

"group of companies" means a holding company and all of its subsidiaries;

"holding company", in relation to a subsidiary, means a juristic person that controls that subsidiary as a result of any circumstances contemplated in section 2(2)(a) or 3(1)(a);

"incorporator", when used—

(a) with respect to a company incorporated in terms of this Act, means a person who incorporated that company, as contemplated in section 13; or

(b) with respect to a pre-existing company, means a person who took the relevant actions comparable to those contemplated in section 13 to bring about the incorporation of that company;

"individual" means a natural person;

"inter-related", when used in respect of three or more persons, means persons who are related to one another in a linked series of relationships, such that two of the persons are related in a manner contemplated in section 2(1) and one of them is related to the third in any such manner, and so forth in an unbroken series;

"juristic person" includes—

(a) a foreign company; and

(b) a trust, irrespective of whether or not it was established within or outside the Republic;

"knowing", **"knowingly"** or **"knows"**, when used with respect to a person, and in relation to a particular matter, means that the person either—

(a) Had actual knowledge of the matter; or

(b) Was in a position in which the person reasonably ought to have—

(i) had actual knowledge;

(ii) investigated the matter to an extent that would have provided the person with actual knowledge; or

(iii) taken other measures which, if taken, could reasonably be expected to have provided the person with actual knowledge of the matter;

"material", when used as an adjective, means significant in the circumstances of a particular matter, to a degree that is—

(a) of consequence in determining the matter; or

(b) might reasonably affect a person's judgement or decision-making in the matter;

"nominee" has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

"non-profit company" means a company —

(a) incorporated for a public benefit or other object as required by item 1(1) of Schedule 1; and

(b) the income and property of which are not distributable to its incorporators, members, directors, officers or persons related to any of them except to the extent permitted by item 1(3) of Schedule 1;

"ordinary resolution" means a resolution adopted with the support of more than 50% of the voting rights exercised on the resolution, or a higher percentage as contemplated in section 65(8) —

(a) at a shareholders meeting; or

(b) by holders of the company's securities acting other than at a meeting, as contemplated in section 60;

"personal financial interest", when used with respect to any person—

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- (a) means a direct material interest of that person, of a financial, monetary or economic nature, or to which a monetary value may be attributed; but
- (b) does not include any interest held by a person in a unit trust or collective investment scheme in terms of the Collective Investment Schemes Act, 2002 (Act No. 45 of 2002), unless that person has direct control over the investment decisions of that fund or investment;

"**prescribed officer**" means a person who, within a company, performs any function that has been designated by the Minister in terms of section 66(10);

"**record date**" means the date established under section 59 on which a company determines the identity of its shareholders and their shareholdings for the purposes of this Act;

"**registered auditor**" has the meaning set out in the Auditing Profession Act;

"**registered office**" means the office of a company, or of an external company, that is registered as required by section 23;

"**related**", when used in respect of two persons, means persons who are connected to one another in any manner contemplated in section 2(1)(a) to section (c);

"**rules**" and "**rules of a company**" means any rules made by a company as contemplated in section 15(3) to (5);

"**special resolution**" means—

- (a) in the case of a company, a resolution adopted with the support of at least 75% of the voting rights exercised on the resolution, or a different percentage as contemplated in section 65(10) -
 - (i) at a shareholders meeting; or
 - (ii) by holders of the company's securities acting other than at a meeting, as contemplated in section 60; or
- (b) in the case of any other juristic person, a decision by the owner or owners of that person, or by another authorised person, that requires the highest level of support in order to be adopted, in terms of the relevant law under which that juristic person was incorporated;

"**subsidiary**" has the meaning determined in accordance with section 3;

"**voting power**", with respect to any matter to be decided by a company, means the voting rights that may be exercised in connection with that matter by a particular person, as a percentage of all such voting rights;

"**wholly-owned subsidiary**" has the meaning determined in accordance with section 3(1)(b).

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Annexure B – Ineligible / disqualified in terms of section 69(7) and (8) of the Companies Act read with Regulation 39(3)

A person is ineligible to be a Director if the Person –

- 1.1. is a Juristic Person;
- 1.2. is an unemancipated minor, or is under a similar legal disability; or
- 1.3. does not satisfy any qualification set out in the MOI.

A person is disqualified to be a Director if –

- 1.4. a court has prohibited that Person to be a Director, or declared the Person to be delinquent in terms of section 162, or in terms of section 47 of the Close Corporations Act, 1984 (Act No. 69 of 1984); or
- 1.5. the Person –
 - 1.5.1. is an unrehabilitated insolvent;
 - 1.5.2. is prohibited in terms of any public regulation to be a Director;
 - 1.5.3. has been removed from an office of trust, on the grounds of misconduct involving dishonesty; or
 - 1.5.4. has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than R1 000,00 (one thousand rand), for theft, fraud, forgery, perjury or an offence –
 - 1.5.4.1. involving fraud, misrepresentation or dishonesty;
 - 1.5.4.2. in connection with the promotion, formation or management of a company, or in connection with any act contemplated in subsection (2) or (5); or
 - 1.5.4.3. under the Companies Act, the Insolvency Act, 1936 (Act No. 24 of 1936), the Close Corporations Act, 1984, the Competition Act, the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), the Securities Services Act, 2004 (Act No. 36 of 2004), or Chapter 2 of the Prevention and Combating of Corruption Activities Act, 2004 (Act No. 12 of 2004).

Annexure C – Prescribed methods of delivery in the Regulations

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
Any Person	<p>By faxing the notice or a certified copy of the document to the Person, if the Person has a fax number;</p> <p>By sending the notice or a copy of the document by electronic mail, if the Person has an Electronic Address;</p> <p>By sending the notice or a certified copy of the document by registered post to the Person's last known address;</p> <p>By any other means authorised by the High Court; or</p> <p>By any other method allowed for that Person in terms of the following rows of this Table.</p>	<p>On the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.</p> <p>On the date and at the time recorded by the computer used by the Company, unless there is conclusive evidence that it was delivered on a different date or at a different time.</p> <p>On the 7th (seventh) day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.</p> <p>In accordance with the order of the High Court.</p> <p>As provided for that method of delivery.</p>
Any natural Person	<p>By handing the notice or a certified copy of the document to the Person, or to any representative authorised in writing to accept service on behalf of the Person;</p> <p>By leaving the notice or a certified copy of the document at the Person's place of residence or business with any other Person who is apparently at least 16 (sixteen) years old and in charge of the premises at the time;</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time recorded on a receipt for the delivery.</p>

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
	By leaving the notice or a certified copy of the document at the Person's place of employment with any Person who is apparently at least 16 (sixteen) years old and apparently in authority.	On the date and at the time recorded on a receipt for the delivery.
A company or similar body corporate	<p>By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within South Africa;</p> <p>If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time sworn to by affidavit of the Person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.</p>