

Companies and Intellectual Property Commission

Republic of South Africa

Memorandum of Incorporation ("MOI")

of

FEDERATION OF AFRICAN PROFESSIONAL STAFFING ORGANISATIONS (NPC)

Registration number 2003/011354/08

("the Company")

The long standard form of MOI for a Non-Profit Company with members, Form CoR.15.1E, as amended from time to time, shall not apply to the Company.

This MOI is in a form unique to the Company, as contemplated in section 13(1)(a)(ii) of the Companies Act 2008, as amended.

Adoption of MOI

This MOI was adopted by the Members of the Company, in accordance with section 16(1), on _____ 2014.

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1. INTERPRETATION

1.1 In this Memorandum of Incorporation, unless the context clearly indicates the contrary, the following words and expressions bear the meanings assigned to them below –

1.1.1 “Act”: the Companies Act (Act no. 71 of 2008 as amended), including all Schedules thereto and the Regulations;

1.1.2 “Africa Affiliates” : means any staffing business residing and operating outside of the Republic of South Africa, but on the continent of Africa, and that has met the stipulated criteria as per the APSO Membership Policy;

1.1.3 “AGM” : means an annual general meeting of the Members of the Company;

1.1.4 “APSO” : is the acronym used for the Federation of African Professional Staffing Organisations and is used interchangeably with the term “Company”;

1.1.5 “APSO Membership Policy”: means the official policy of the Company from time to time, regulating and prescribing the membership requirements of the Company;

1.1.6 “Auditors”: the auditors of the Company who are from time to time appointed in terms of the Act;

1.1.7 “Board”: the board of Directors of the Company as constituted from time to time;

1.1.8 “Branch” : any office, other than the Head Office, of a Full Member and includes any physical or virtual presence within another region or office/premises including a “satellite office”, payroll site, place to collect timesheets, whether staffed or not;

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| 1.1.9 | “Business Day”: | any day excluding a Saturday, Sunday or public holiday in the Republic of South Africa; |
| 1.1.10 | “Chairperson” : | means the elected individual tasked with leading a specific committee or the Board, as the context may indicate; |
| 1.1.11 | “Commission”: | the Companies and Intellectual Property Commission established by section 185 of the Act; |
| 1.1.12 | “Company”: | means the Federation of African Professional Staffing Organisations (NPC) (registration number: 2003/011354/08) a non-profit Company duly incorporated in terms of the Act; |
| 1.1.13 | “Debt” : | means any amount howsoever arising, owed by a Member to the Company, including but not limited to amounts owed in respect of membership subscription fees; |
| 1.1.14 | “Director”: | any Director who is appointed to the Board from time to time as contemplated in section 66 of the Act; |
| 1.1.15 | “Dual Staffing Business” : | means an entity that operates as both a PEA and a TES; |
| 1.1.16 | “Electronic Communication”: | electronic communication as defined in section 1 of the Electronic Communications and Transactions Act (Act no. 25 of 2002); |
| 1.1.17 | “Executive Director” : | means a Director that is also a full time employee of the Company and receives remuneration for his/her services to the Company; |
| 1.1.18 | “Filing Date”: | means the date upon which this MOI is filed with the Commission as contemplated in Section 16(9)(a) of the Act; |

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| 1.1.19 | “Full Member” : | means any individual company, close corporation, business unit, sole proprietor, franchise, and/or brand that resides and operates as a registered PEA, TES, or Dual Staffing Business within the borders of Republic of South Africa and has complied with the prevailing legislation and APSO Membership Policy; |
| 1.1.20 | “Income Tax Act” : | means the Income Tax Act (Act 58 of 1962) as amended from time to time; |
| 1.1.21 | “Individual Affiliate” : | means an individual working within the staffing industry and who has been awarded one of the professional designations recognised by SAQA and managed by APSO as the professional body for the staffing industry; |
| 1.1.22 | “International Affiliate” : | means a staffing business residing and operating outside of Africa and that has met the entrance criteria stipulated by the APSO Membership Policy; |
| 1.1.23 | “Member”: | means the Voting Members and Non-Voting Members of the Company as contemplated in Article 10; |
| 1.1.24 | “Memorandum”: | this Memorandum of Incorporation, as amended from time to time; |
| 1.1.25 | “Non-Executive Director”: | means a Director that is not an Executive Director of the Company and does not receive any remuneration for the services rendered by him/her to the Company; |
| 1.1.26 | “Ordinary Resolution” : | means a resolution adopted at a meeting of the Voting Members of the Company, with the support of more than 50% (Fifty Percent) of the voting rights exercised on the resolution; |
| 1.1.27 | “PEA” : | means a private employment agency registered in accordance with prevailing legislation; |

- 1.1.28 “Republic”: the Republic of South Africa;
- 1.1.29 “Rules”: any rules made in respect of the Company from time to time as contemplated in section 15(3) to (5) of the Act and Article 28 hereof;
- 1.1.30 “Special Resolution” : means a resolution adopted at a meeting of the Voting Members of the Company, with the support of at least 75% (Seventy Five Percent) of all the voting rights exercised on the resolution;
- 1.1.31 “Subsidiaries”: any business unit, branch, division, brand, franchise, company, close corporation or any other recognised legal entity under ownership and/or control of a member
- 1.1.32 “Term of Office” : means the period of time from one AGM, or interim election/co-option of an office bearer of the Company, to the date of the following AGM, both days inclusive;
- 1.1.33 “TES” : means a temporary employment services business registered in accordance with prevailing legislation.

1.2 In this Memorandum, unless the context clearly indicates otherwise –

1.2.1 words and expressions defined in the Act and which are not defined herein shall have the meanings given to them in the Act;

1.2.2 a reference to a section by number refers to the corresponding section of the Act notwithstanding the renumbering of such section after the date on which the Company is incorporated or this Memorandum is filed;

1.3 in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this Memorandum and –

1.3.1 an alterable or elective provision of the Act, the provision of this Memorandum shall prevail to the extent of the conflict; and

1.3.2 an unalterable or non-elective provision of the Act, the unalterable or non-elective provision of the Act shall prevail to the extent of the conflict;

- 1.4 Article headings are for convenience only and are not to be used in its interpretation;
- 1.5 An expression which denotes -
 - 1.5.1 any gender includes the other genders;
 - 1.5.2 a natural person includes a juristic person and *vice versa*; and
 - 1.5.3 the singular includes the plural and *vice versa*.
- 1.6 If the due date for performance of any obligation in terms of this Memorandum is a day which is not a Business Day then (unless otherwise stipulated), the due date for performance of the relevant obligation shall be the immediately succeeding Business Day;
- 1.7 Any words or expressions defined in any Article shall, unless the application of any such word or expression is specifically limited to that Article, bear the meaning assigned to such word or expression throughout the whole of this Memorandum;
- 1.8 Any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form such that the notice can conveniently be printed by the recipient within a reasonable time and at a reasonable cost.
- 1.9 Unless otherwise provided in this Memorandum or the Act, defined terms appearing herein in title case shall be given their meaning as defined, while the same terms appearing in lower case shall (except where defined in the Act) be interpreted in accordance with their plain English meaning.
- 1.10 Where 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 excluding the day on which the first event occurs and including the day on which or by which the second event is to occur.
- 1.11 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.

2. **INCORPORATION**

- 2.1 The Company is a pre-existing non-profit company with members, incorporated as such from the date reflected in the registration certificate of the Company.

- 2.2 The Company is incorporated in accordance with and governed by –
- 2.2.1 the unalterable provisions of the Act that are applicable to non-profit companies; and
 - 2.2.2 the alterable provisions of the Act that are applicable to non-profit companies, subject to the limitations, extensions, variations or substitutions set out in this Memorandum;
 - 2.2.3 the other provisions of this Memorandum; and
 - 2.2.4 its Rules, if any.
- 2.3 The Company accepts the principle of free enterprise and accordingly actively discourages and disassociates itself from any form of cartel, price or fee fixing or agreement of non-competitive terms of business.
- 2.4 All persons irrespective of race, gender, sex, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture and birth shall have access to exercise their rights to participate on a democratic basis within the context of APSO membership, association structures and activities.

3. STATUS AS NON-PROFIT COMPANY

- 3.1 The Company-
- 3.1.1 shall exist in its own right, separately from its office bearers and Members, and continue to exist notwithstanding changes in the composition of its office bearers and Members;
 - 3.1.2 shall be able to own property and other possessions;
 - 3.1.3 shall apply all of its assets and income, howsoever derived, to advance its stated objectives, as set out in this Memorandum;
 - 3.1.4 shall carry on all of its activities in a non-profit manner and intent;
 - 3.1.5 shall be able to receive and accept donations, except to the extent that such donations are revocable at the instance of the donor, as contemplated in the Income Tax Act; and
 - 3.1.6 shall conduct all of its financial transactions by means of a banking account.

- 3.2 The Company shall not directly or indirectly pay any portion of its income or transfer any of its assets, regardless how the income or assets were derived, to any person who is or was an incorporator of the Company, or who is a Director, or any person appointed a Director or any employee of the Company, except to the extent that any such payment or transfer relates to-
- 3.2.1 remuneration, being any remuneration which is generally considered reasonable in the sector and in relation to the services rendered, for services rendered to, or at the direction of the Company;
 - 3.2.2 payment of, or reimbursement for, reasonable expenses incurred to advance a stated object of the Company;
 - 3.2.3 a payment due and payable by the Company in terms of a bona fide agreement between the Company and that person or another;
 - 3.2.4 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 the stated objective of the Company;
 - 3.2.5 in respect of any legal obligation of the Company.
- 3.3 The Company is, accordingly, classified as a non-profit Company with members as contemplated in Section 8(1) of the Act.

4. **THE COMPANY'S REGISTERED TRADEMARK**

- 4.1 The APSO logo is officially registered as a trademark and the use thereof is subject to the approval of the Board in accordance to prevailing Company Corporate Identity policy.
- 4.2 The official logo of the Company as contemplated in Article 4.1 is the following:



5. PROFESSIONAL BODY STATUS

The Company was officially recognised by the South Africa Qualifications Authority (“SAQA”) in September 2013, as the professional body for the South African staffing industry and is tasked with managing and awarding professional designations for individuals operating within the staffing industry.

6. MAIN OBJECTIVE OF THE COMPANY

6.1 The Company is the arbiter of standards in the Staffing Industry in Africa, comprising PEA’s, TES’s and the individuals operating in the profession and its objectives are to:

- 6.1.1 Achieve maximum representation in, and on behalf of, the Staffing Industry;
- 6.1.2 Regulate relations between its Members;
- 6.1.3 Promote and protect the interests of Members;
- 6.1.4 Protect the interests of clients and candidates of Members;
- 6.1.5 Promote, support, oppose or seek to influence current and proposed legislation or other regulations, and international standards affecting the interests of Members;
- 6.1.6 Uplift and safeguard the image and reputation of Members and the Company;
- 6.1.7 Promote and manage, as the recognised Professional Body, qualifications and designations for the Staffing Industry;
- 6.1.8 Provide Continuous Professional Development (CPD) to Members;
- 6.1.9 Ensure that all rules, policies and procedures are in line with such principles as set out in the Bill of Rights of the Constitution of the Republic of South Africa and prevailing legislation;
- 6.1.10 Empower Members to operate quality-focused, compliant and profitable businesses; and
- 6.1.11 To pursue the above objectives in the Republic of South Africa and Africa, in accordance with the appropriate local legislative and regulatory environments.

7. SPECIAL CONDITIONS

This Memorandum does not contain any special conditions applicable to the Company as contemplated in section 15(2)(b) or (c).

8. APPLICATION OF OPTIONAL PROVISIONS OF THE ACT

8.1 The Company does not elect, in terms of section 34(2), to comply voluntarily with the extended accountability provisions set out in Chapter 3 of the Act.

8.2 The Company elects, in terms of section 30(2)(b)(ii)(aa) of the Act, to voluntarily require an audit of its annual financial statements.

8.3 The financial year end of the Company shall be the last day of June.

9. AMENDMENT OF MEMORANDUM OF INCORPORATION

9.1 This Memorandum may be amended only as follows:

9.1.1 in compliance with a Court Order. An amendment to the Memorandum required by any Court Order must be effected by a resolution of the Company's Board and does not require a Special Resolution by the Members; or

9.1.2 at any other time other than in compliance with a Court Order, if a Special Resolution to amend it:

9.1.2.1 is proposed by the Board of the Company; and

9.1.2.2 is supported by a Special Resolution of the Members at a general meeting of the Members.

9.2 The Board, or any individual authorised by the Board, may alter this Memorandum in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document by –

9.2.1 publishing a notice of any alteration made by delivering a copy of such amendments to each Member by ordinary mail; and

9.2.2 filing a notice of the alteration.

9.3 An amendment of this Memorandum will take effect from the later of –

9.3.1 the date on, and time at, which the Commission accepts the filing of the notice of amendment contemplated in section 16(7); and

9.3.2 the date, if any, set out in the said notice of amendment,

save in the case of an amendment that changes the name of the Company, which will take effect from the date set out in the amended registration certificate issued by the Commission.

10. **MEMBERS**

10.1 As contemplated in Item 4(1) of Schedule 1 of the Act, the Company has Members who are in either of two classes, namely –

10.1.1 Voting Members; and

10.1.2 Non-Voting Members.

10.2 The Voting Members of the Company shall –

10.2.1 be entitled to vote at any Members meeting of the Company; and

10.2.2 comprise of the Full Members and their Branches.

10.3 The Non-Voting Members of the Company shall –

10.3.1 not be entitled to vote at any Members meeting of the Company; and

10.3.2 comprise of the Africa Affiliates, International Affiliates and Individual Affiliates.

10.4 Any person, natural or juristic, shall have the right to apply for membership and will have their application assessed against membership entry requirements as contained within the prevailing APSO Membership Policy.

10.5 A person applying for membership is required to disclose all subsidiaries involved in staffing and to apply for membership for each of these subsidiaries.

10.6 A minimum embedded knowledge is required in order for individuals working within the staffing industry to deliver compliant, ethical and professional services. Thus, it is a compulsory requirement of membership to the Company that any individual (who is

client- or candidate-facing) working for a Member must write and pass the APSO Entrance Exam within the first 12 (twelve) months of joining.

- 10.7 At least the custodian of recruitment operations and/or a nominated official of that member must complete any of the three professional designations within 12 (twelve) months of becoming a member of the Company or implementation of this MOI.
- 10.8 Members shall be provided with an annual certificate of membership. Such certificate must be displayed on their premises and/or website. Membership certificates shall, at all times, remain the property of the Company. The Company reserves the right, at any time, to revoke a membership certificate should a Member's membership be suspended or terminated.
- 10.9 Membership is annually renewable and shall automatically terminate if the Member does not renew its membership in accordance with prevailing APSO Membership Policy.
- 10.10 An annual compliance assessment shall form a compulsory part of the renewal process and the Member is required to adhere to any compliance directive issued by the Company in order to successfully renew its membership with the Company.
- 10.11 The Company may suspend a Member's membership for a just cause in accordance with the prevailing APSO Membership Policy. For the period of suspension all Member access and privileges will be removed and the Member will be required to remove all references to and association with the APSO trademarks, logo, and inferences of membership or material of a like nature.
- 10.12 Where a Member is a legal entity (company, close corporation, trust or other entity, whether incorporated or unincorporated) such Member shall designate a person to represent it with respect to the Company. A company resolution shall be provided by the legal entity to the Board evidencing the authority of the person to represent it, without derogating from the rights with respect to the provision of a proxy. Such authorised representative shall be obliged to present proof of identity and confirmation of his representative capacity to the Chairperson or his duly appointed representative, at any general meeting attended by such representative.
- 10.13 Where a Member is a legal entity (company, close corporation, trust or other entity, whether incorporated or unincorporated), the directors, shareholders, trustees and/or members of such legal entity shall be personally liable, jointly and severally with such

Member, for the due performance by the Member of all its obligations in terms of the Memorandum and/or Rules.

- 10.14 The Company shall maintain at its registered office, alternatively at the office of Management, a register of Members of the Company as provided in item 1(9) of Schedule 1 to the Act.
- 10.15 The register of Members shall be open to inspection.
- 10.16 Each Member shall be required to provide the Company with written particulars of his postal address, facsimile number (if any) and/or e-mail address to facilitate delivery of all communication, correspondence and documents, it being competent for any Member to alter any such details by written notice to the Company at its registered office.
- 10.17 For purposes of legal action, the physical address of a Member as provided in terms of Article 10.16 shall be the *domicilium citandi et executandi* of the Member. If a Member wishes to change such *domicilium* address such Member must give written notice to that effect to the Company.

11. RIGHTS AND OBLIGATIONS OF MEMBERS

- 11.1 Each Member shall have the rights and obligations recorded in this Memorandum, the Act and the Rules of the Company, as amended from time to time.
- 11.2 Voting Members who are in good standing (i.e. have no unpaid Debts to the Company and are in compliance with all of the membership requirements set out in the APSO Membership Policy) shall have the right to vote at all general meetings of the Members of the Company. Voting Members that are not in good standing shall not be entitled to vote at any general meetings of the Members of the Company until they have fully paid all Debts to the Company and/or comply with all membership requirements in the APSO Membership Policy.
- 11.3 Members shall diligently and promptly comply with the obligations imposed in terms of this Memorandum and observe all Rules and shall be responsible for and obliged to ensure compliance therewith by their executives, employees, agents and contractors.
- 11.4 The rights and obligations of a Member shall not be capable of being ceded and/or assigned, in whole or in part, nor otherwise be transferable.

12. MEETINGS OF MEMBERS

- 12.1 The Board, or any prescribed officer of the Company authorised by the Board, is entitled to call a Members' meeting at any time.
- 12.2 The Board shall call a meeting of Members if 1 (One) or more written and signed demands calling for such a meeting are delivered to the Company and –
- 12.2.1 each such demand describes the specific purpose for which the meeting is proposed; and
- 12.2.2 in aggregate, demands for substantially the same purpose are made and signed by the holders, at the earliest time specified in any of those demands, of at least 10% (Ten Percent) of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.
- 12.3 Notwithstanding any provision of the Act to the contrary, and in addition to other meetings of the Company that may be convened from time to time, the Company shall convene an annual general meeting (“AGM”) of its Members once in each calendar year, but no more than 18 (Eighteen) months after the date of the previous AGM.
- 12.4 Each AGM of the Company contemplated in Article 12.3 shall provide for at least the following business to be transacted at the AGM –
- 12.4.1 the presentation of the financial statements for the immediately preceding financial year of the Company;
- 12.4.2 the election of Non-Executive Directors, to the extent required by the Act or by this Memorandum;
- 12.4.3 the appointment of an auditor for the following financial year, to the extent that the annual financial statements of the Company are required to be audited in terms of the Act or by this Memorandum; and
- 12.4.4 any matters raised by the Members, with or without notice to the Company.
- 12.5 The minutes of an AGM shall be circulated to the Members no later than 60 (Sixty) days after the date of the AGM.
- 12.6 Save as otherwise provided in this Memorandum, the Company is not required to hold any other Members' meetings other than those specifically required by the Act.

- 12.7 The Board may determine the location of any Members' meeting, which location shall as far as possible be at the principle place of business of the Company or within a reasonable distance thereof.
- 12.8 The minimum number of days for the Company to deliver a notice of a Members' meeting to the Members as required by Section 62 is as provided for in section 62(1) and, accordingly, any such notice shall be delivered to all Members as of the record date for the meeting, at least 15 (Fifteen) Business Days before the meeting is to begin.
- 12.9 The quorum requirement for a Members' meeting to begin or for a matter to be considered are as set out in section 64(1) without variation and, accordingly –
- 12.9.1 a Members' meeting may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 10% (Ten Percent) of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and
- 12.9.2 a matter to be decided at a Members' meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise, in aggregate, at least 10% (Ten Percent) of all of the voting rights that are entitled to be exercised in respect of that matter at the time the matter is called on the agenda,
- provided that, if the Company has more than 2 (Two) Members, a meeting may not begin, or a matter begin to be debated, unless –
- 12.9.3 at least 2 (Two) Members are present at the meeting; and
- 12.9.4 the requirements of Articles 12.9.1 and 12.9.2 are satisfied.
- 12.10 The time periods allowed in section 64(4) and (5) apply to the Company without variation and, accordingly, if within 60 (Sixty) minutes after the appointed time for a meeting to begin, the requirements of Article 12.9 –
- 12.10.1 for that meeting to begin have not been satisfied, the meeting is postponed, without any motion, vote or further notice, for 1 (One) week;
- 12.10.2 for consideration of a particular matter to begin have not been satisfied –
- 12.10.2.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without any motion or vote; or

- 12.10.2.2 if there is no other business on the agenda of the meeting, the meeting is adjourned, without any motion or vote, for 1 (One) week,
- provided that the person intended to chair a meeting that cannot begin due to the operation of Article12.9 may extend the 60 (Sixty) minute limit allowed in Article12.10 for a reasonable period on the grounds that –
- 12.10.2.3 exceptional circumstances affecting weather, transportation or Electronic Communication have generally impeded or are generally impeding the ability of Members to be present at the meeting; or
- 12.10.2.4 one or more particular Members, having been delayed, have communicated an intention to attend the meeting, and those Members, together with others in attendance, would satisfy the requirements of Article12.9.
- 12.11 The accidental omission to give notice of any meeting to any particular Member or Members shall not invalidate any resolution passed at any such meeting.
- 12.12 The Company shall not be required to give further notice of a meeting that has been postponed or adjourned in terms of 12.10 unless the location for the meeting is different from –
- 12.12.1 the location of the postponed or adjourned meeting; or
- 12.12.2 the location announced at the time of adjournment, in the case of an adjourned meeting.
- 12.13 If at the time appointed in terms of Article12.10 for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of Article12.9 have not been satisfied, the Members present in person or by proxy will be deemed to constitute a quorum.
- 12.14 After a quorum has been established for a meeting, or for a matter to be considered at a meeting, the meeting may continue, or the matter may be considered, so long as at least 1 (One) Member with voting rights entitled to be exercised at the meeting, or on that matter, is present at the meeting, and the provisions of section 64(9) are not limited or restricted by this Memorandum.
- 12.15 The maximum period allowable for an adjournment of a Members' meeting is as set out in section 64(12), without variation.

- 12.16 The President of the Company or his/her nominee shall preside as Chairperson at every Member's meeting.
- 12.17 The Chairperson of a Members' meeting may -
- 12.17.1 appoint persons to act as scrutinisers for the purpose of checking any powers of attorney received and for counting the votes at the meeting;
- 12.17.2 act on a certificate given by any such scrutinisers without requiring production at the meeting of the forms of proxy or himself counting the votes.
- 12.18 If any votes were counted, which ought not to have been counted or if any votes were not counted which ought to have been counted, the error shall not vitiate the resolution, unless -
- 12.18.1 it is brought to the attention of the Chairperson at the meeting; and
- 12.18.2 in the opinion of the Chairperson of the meeting, it is of sufficient magnitude to vitiate the resolution.
- 12.19 Any objection to the admissibility of any vote (whether on a show of hands or on a poll) shall be raised -
- 12.19.1 at the meeting or adjourned meeting at which the vote objected to was recorded; or
- 12.19.2 at the meeting or adjourned meeting at which the result of the poll was announced,
- 12.19.3 and every vote not then disallowed shall be valid for all purposes. Any objection made timeously shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.

13. MEMBERS' MEETINGS BY ELECTRONIC COMMUNICATION

- 13.1 The Company may conduct a Members' meeting entirely by Electronic Communication or provide for participation in a meeting by Electronic Communication, as set out in section 63, and the power of the Company to do so is not limited or restricted by this Memorandum. Accordingly –
- 13.1.1 any Members' meeting, including the AGM, may be conducted entirely or partly by Electronic Communication; or

13.1.2 one or more Members, or proxies for Members, may participate by Electronic Communication in all or part of any Members' meeting that is being held in person,

so long as the Electronic Communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other and without an intermediary, and to participate reasonably effectively in the meeting.

13.2 Any notice of any meeting of Members at which it will be possible for Members to participate by way of Electronic Communication shall inform Members of the ability to so participate and shall provide any necessary information to enable Members or their proxies to access the available medium or means of Electronic Communication, provided that such access shall be at the expense of the Member or proxy concerned.

14. **VOTES OF MEMBERS**

14.1 At any Member's meeting of the Company:

14.1.1 each Member of the Company through its representative(s) present in person or by proxy shall have:

14.1.1.1 1 (One) vote, except for Dual Staffing Agencies, who shall have 2 (Two) votes;

14.1.1.2 1 (One) additional vote for each region in which a Member is registered;

14.1.1.3 1 (One) further additional vote for every 10 (Ten) Branches that a Member has,

subject thereto that no Member shall have more than 5 (Five) votes;

14.1.2 The form appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing or, if the appointer is a corporate body, under the hand of an officer or agent authorised by that body. The holder of a general or special power of attorney given by a Member shall be entitled to vote, if duly authorised under that power to attend and take part in the meetings and proceedings of the Company or companies generally, whether or not he be himself a Member of the Company.

14.2 The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power of authority shall be provided to the Chairperson prior to the commencement of any general meeting at

which the person named in the form proposes to vote, and in default the form of proxy shall not be treated as valid. No form appointing a proxy shall be valid after the meeting for which it was given, except at an adjourned meeting unless otherwise specifically stated in the proxy itself.

- 14.3 Subject to the provisions of the Act, a form appointing a proxy shall be substantially in line with the form attached hereto as Schedule 1.

15. MEMBERS' RESOLUTIONS

- 15.1 For an Ordinary Resolution to be approved it must be supported by more than 50% (Fifty Percent) of the voting rights of Voting Members exercised on the resolution.
- 15.2 For a Special Resolution to be approved it must be supported by the holders of at least 75% (Seventy Five Percent) of the voting rights of Voting Members exercised on the resolution.
- 15.3 No matters, except those matters set out below, as contemplated in section 65(11) and any other matter required by the Act or by this Memorandum to be resolved by means of a Special Resolution, require a Special Resolution adopted at a Member's' meeting of the Company:
- 15.3.1.1 The amendment of the Company's Memorandum to the extent required by Section 16(1)(c);
- 15.3.1.2 Approve the voluntary winding-up of the Company as contemplated in Section 80(1);
- 15.3.1.3 Approve any proposed fundamental transaction, to the extent required by Part A of Chapter 5 of the Act, namely:
- 15.3.1.3.1 A proposal to dispose of all or the greater part of the Company's undertaking or assets;
- 15.3.1.3.2 A proposal for an amalgamation or merger with another non-profit company; and
- 15.3.1.3.3 A proposal for a scheme of arrangement.

15.4 In the event that any Member abstains from voting in respect of any resolution, such Member will, for the purposes of determining the number of votes exercised in respect of that resolution, be deemed not to have exercised a vote in respect thereof.

15.5 In the event of a tied vote at a general meeting of Members, the President shall have a casting vote.

16. ROUND ROBIN RESOLUTIONS

16.1 A resolution that could be voted on at a Members meeting may instead be—

16.1.1 submitted for consideration to the Voting Members entitled to exercise voting rights in relation to the resolution; and

16.1.2 voted on in writing by Voting Members entitled to exercise voting rights in relation to the resolution within 20 (Twenty) business days after the resolution was submitted to them.

16.2 A resolution contemplated in sub-article 1.1 —

16.2.1 will have been adopted if it is supported by Voting Members entitled to exercise sufficient voting rights for it to have been adopted as an Ordinary or Special Resolution, as the case may be, at a properly constituted Members meeting; and

16.2.2 if adopted, has the same effect as if it had been approved by voting at a Members meeting.

16.3 Unless the contrary is stated therein, any such resolution shall be deemed to have been passed on the latest date on which it was signed by any Member, provided it is passed within 20 (Twenty) Business Days after the resolution was submitted to the relevant Members.

16.4 A faxed or e-mailed copy of a Members' signed resolution shall be acceptable evidence that such resolution has been signed by the Member whose duly authorised representative's signature appears on the fax or e-mailed copy.

16.5 Within 10 (Ten) Business Days after adopting a resolution or conducting an election of directors, in terms of the Act other than at a meeting of the Members, 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 resolution, or vote in the election of the director, as the case may be.

17. COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS

- 17.1 The business and affairs of the Company will be managed by the Board of Directors, which has the authority to exercise all powers and to perform all functions of the Company, except to the extent limited by the Act or this Memorandum.
- 17.2 A Director shall only be appointed upon the acceptance, in writing, by the Director of his/her appointment as such. By accepting his/her appointment as Director, he/she shall be deemed to have agreed to be bound by all the provisions of this Memorandum and to give effect thereto in all of his/her conduct as Director of the Company.
- 17.3 In addition to the minimum number of Directors, if any, that the Company must have to satisfy any requirement in terms of the Act to appoint an audit committee, or a social and ethics committee, the Board must comprise of at least 6 (Six), but not more than 12 (Twelve) Non-Executive Directors. The Board shall be entitled to determine the minimum and maximum number of Executive Directors of the Company from time to time.
- 17.4 The members of the Board shall be designated to at fill at least the following offices –
- 17.4.1 President;
 - 17.4.2 Up to 2 (Two) Vice Presidents;
 - 17.4.3 Treasurer;
 - 17.4.4 Chairperson: Ethics and Professional Practice Committee;
 - 17.4.5 Chairperson: Professional Development Standards Committee; and
 - 17.4.6 Chairperson: Regional Representatives Committee.
- 17.5 Other offices on the Board, not specified above, may become specified offices nominated by the Board, for as long as the need for such vacancies is present.
- 17.6 The holding of an office by a Director as contemplated in Article 17.4, shall be subject to the following provisions –

17.6.1 President:

17.6.1.1 An individual who stands to be elected as President of the Company must have served at least 2 (Two) full Terms of Office on the Board of Directors.

17.6.1.2 A President's normal Term of Office shall be a maximum of 3 (Three) years, whereafter he/she may be re-elected subject to the conditions of Article 18 below.

17.6.1.3 The President shall be responsible for the strategic leadership of the Company and the management of the Board of Directors.

17.6.1.4 In the event that the office of President becomes vacant for any reason, the Board of Directors shall have the power to vote a fellow member of the Board into this office or to co-opt an eligible Member to act as President until the next AGM.

17.6.2 Vice President

17.6.2.1 Any nominated representative of a Member, employed by such a Member, who is eligible may be elected to the role of Vice President.

17.6.2.2 A Vice President may be elected by the Members at an AGM or elected by the Board from individuals serving on the Board.

17.6.2.3 In addition to any tasks assigned by the Board of Directors, the Vice President(s) shall be required to support the President including acting in the President's stead where the President is unable to attend to specific matters.

17.6.2.4 In the event that the role of Vice President becomes vacant for any reason, the Board of Directors shall have the power to vote a fellow member of the Board into this position or to co-opt an eligible Member to act as Vice President until the next AGM.

17.6.3 Treasurer

17.6.3.1 A nominated representative of a Member, employed by such a Member, who stands to be elected as Treasurer of the federation must be suitably qualified and experienced in financial management.

- 17.6.3.2 The Treasurer shall be responsible for budgeting and management of the financial affairs of the Company.
- 17.6.3.3 In the event that the role of Treasurer becomes vacant for any reason, the Board of Directors shall have the power to vote a fellow member of the Board into this position or to co-opt an eligible Member to act as Treasurer until the next AGM.
- 17.6.3.4 Given the importance of this role, should a suitably qualified Member not be available, the Board of Directors shall have the right to appoint a specialist or independent advisor from outside of its Members.
- 17.6.4 Chairperson: Ethics and Professional Practice Committee
- 17.6.4.1 Any nominated representative of a Member, employed by such a Member, who is eligible to serve on the Board may be elected to the office of Chairperson: Ethics and Professional Practice providing they have served at least 2 (Two) full Terms of Office on the Ethics and Professional Practice Committee.
- 17.6.4.2 The Chairperson: Ethics and Professional Practice is the custodian of ethics within the Company and is mandated to ensure Member compliance with, and the enforcement of, the APSO Code of Ethics and Codes of Professional Practice.
- 17.6.4.3 In the event that the role of Chairperson: Ethics and Professional Practice becomes vacant for any reason, the Board of Directors shall have the power to vote a fellow member of the Board into this position or to co-opt an eligible Member to act as the Chair until the next AGM.
- 17.6.5 Chairperson: Professional Development Standards Committee
- 17.6.5.1 Any nominated representative of a Member, employed by such a Member, who is eligible to serve on the Board may be elected to the role of Chairperson: Professional Development Standards providing they have served at least 1 (One) full Term of Office on the Professional Development Standards Committee.
- 17.6.5.2 The Chairperson: Professional Development Standards is the custodian of individual professional development and professionalization within the

Company and is mandated to manage the process of awarding, revoking and maintaining individual professional designations.

17.6.5.3 In the event that the role of Chairperson: Professional Development Standards becomes vacant for any reason, the Board of Directors shall have the power to vote a fellow member of the Board into this position or to co-opt an eligible Member to act as the Chairperson until the next AGM.

17.6.6 Chairperson: Regional Representatives Committee

17.6.6.1 Any duly elected Regional Chairperson, who is eligible to serve on the Board, may be elected by Voting Members who are his/her fellow Regional Chairs to the role of Chairperson: Regional Representatives Committee, providing he/she has served at least one (1) full term of office as a Regional Chairperson.

17.6.6.2 The Chairperson: Regional Representatives Committee is mandated to raise issues of mutual interest and to advocate on behalf of the regions in addition to fulfilling the normal duties of a Board member.

17.6.6.3 In the event that the role of Chairperson: Regional Representatives Committee becomes vacant for any reason, the Members of the Regional Representatives Committee, shall have the power to vote a fellow Member of the Regional Representatives Committee into this position.

17.7 The Non-Executive Directors shall consist of individual representatives of Members, who shall be proprietors, partners, directors or senior employees of Members.

17.8 All of the Non-Executive Directors shall be appointed by an Ordinary Resolution of the Members at an AGM of the Company. Not more than 3 (Three) representatives of any Member company or group of companies may be elected to the Board of Directors in any single Term of Office. If more than one representative from any Member company or group of companies are elected, such representatives shall have 1 (One) vote combined between them at any Board meeting.

17.9 The Executive Directors of the Company–

17.9.1 shall be directly appointed from the full time employees of the Company by the Board, as contemplated in Section 66(4)(a)(i);

- 17.9.2 are mandated with the daily management and operation of the Company's business apart from any other tasks or portfolios assigned to them by the Board;
- 17.9.3 shall directly report to the President of the Company; and
- 17.9.4 shall be the only Directors entitled to remuneration for their services to the Company.
- 17.10 There shall be no ex officio Directors of the Company, as contemplated in Section 66(4)(a)(ii) of the Act.
- 17.11 The Board may elect a person who satisfies the requirements for election as a Director to fill any vacancy and serve as Director of the Company on a temporary basis until the vacancy has been filled either by election in terms of Article 17.8 in the case of Non-Executive Directors or in terms of Article 17.9 in the case of Executive Directors, and during that period, any person so appointed shall have all of the powers, functions and duties, and is subject to all liabilities, of any other Director of the Company.
- 17.12 In addition to satisfying the qualification and eligibility requirements set out in section 69, a person shall cease to be eligible to act as Director and shall be deemed to have been resigned as Director, if that person absents himself from 3 (Three) consecutive meetings of the Board without the leave of the Board, and the Board resolves that this office shall be vacated.
- 17.13 Each Director of the Company shall only serve for the period of office stipulated in this Memorandum, his/her executive agreement (where applicable) and/or as resolved at a Members meeting, after which period such Director shall be deemed to have retired from office as such, but will be eligible for re-election to the Board, subject thereto that the Director is not disqualified to serve as Director in terms of the Act or this Memorandum.
- 17.14 A Director shall cease to hold office and a vacancy on the Board shall arise if:
- 17.14.1 he/she dies;
- 17.14.2 his/her estate is sequestrated or he/she files a petition for the surrender of his/her estate or an application for an administration order, or if he/she commits an act of insolvency as defined in the Insolvency Act for the time being in force, or if he/she makes any arrangement or composition with his/her creditors generally; or

- 17.14.3 he/she becomes of unsound mind; or
 - 17.14.4 he/she resigns by giving at least 60 (Sixty) days' written notice in writing to the Company; or
 - 17.14.5 he/she is removed from the Board of Directors by the Members, or the Board or in terms of a Court Order in terms of any provision of the Act; or
 - 17.14.6 any of the other circumstances contemplated in section 70(1) arising.
- 17.15 The Company shall, within 10 (Ten) Business Days after a Director becomes or is removed as Director, file a notice in the prescribed form.

18. TERMS OF OFFICE FOR DIRECTORS

- 18.1 A Non-Executive Director shall serve a maximum of 5 (Five) consecutive Terms of Office, but may be re-elected in the future providing that there has been an absence for at least one Term of Office.
- 18.2 In exceptional circumstances, where the portfolio of a vacant office is highly technical and a suitably qualified and willing person to fill the vacancy, after the Board has taken reasonable steps to do so, could not be found, then a Board Member who has already served 5 (Five) consecutive Terms of Office may be elected by Members at an AGM, provided that:
- 18.2.1 Such a Board Member may not serve as a Board Member for more than 7 (Seven) consecutive Terms of Office; and
 - 18.2.2 The Board unanimously nominates such a Board Member and motivates in writing the nomination of the said Board Member to the Members of the Company coinciding with the notice of the AGM.

19. ALTERNATE DIRECTORS

The Directors shall not have the power to nominate another person to act as alternate Director in his/her place during his/her absence or inability to act as such Director.

20. GENERAL POWERS AND DUTIES OF DIRECTORS

- 20.1 Unless otherwise resolved by way of an Ordinary Resolution at any general meeting, and in addition to any other rights the Board may have in accordance with the Act, the Board is authorised and empowered to:

- 20.1.1 Undertake any activities for the purpose of conducting the Company's business and achieving its objectives as set out in Article 4. Its activities must not contravene the provisions of the Act, this Memorandum or any law in the Republic of South Africa;
- 20.1.2 Buy, hire or exchange for any property that it needs to achieve its objectives set out in this Memorandum;
- 20.1.3 Ensure that the Company complies with such reporting requirements as may be determined by the Commissioner from time to time, to the extent that the Company has applied for and has been approved as a public benefit organisation as contemplated in the Income Tax Act;
- 20.1.4 Make rules for the proper management of the Company;
- 20.1.5 Exercise all of the powers and perform any of the functions of the Company, as set out in section 66(1);
- 20.1.6 Institute legal proceedings to protect existing rights of the Company and/or its Members, enforce the provisions of this Memorandum and/or any Rules and defend any legal proceedings brought against the Company;
- 20.1.7 Open and conduct all financial transactions relating to the Company's business in a banking account(s);
- 20.1.8 Disburse, from the bank account(s) such operational and capital expenditure as approved in the budget and as otherwise may be authorised by a general meeting of Members;
- 20.1.9 Enter into contracts necessary for the purposes of achieving the objectives of the Company and giving effect to the powers of the Company in its implementation of this Memorandum;
- 20.1.10 Terminate any committee and/or revoke and/or amend any appointments to such committees and/or the delegations of authority to such committee, from time to time, as deemed necessary.

21. DIRECTORS' MEETINGS

- 21.1 Save as may be provided otherwise herein, the Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.

- 21.2 The Directors may elect a Chairperson and a deputy Chairperson and determine the period for which each is to hold office. The Chairperson, or in his absence the deputy Chairperson, shall be entitled to preside over all meetings of Directors. If no Chairperson or deputy Chairperson is elected, or if at any meeting neither is present or willing to act as Chairperson thereof within 10 (Ten) minutes of the time appointed for holding the meeting, the Directors present shall choose 1 (One) of their number to be Chairperson of such meeting.
- 21.3 In addition to the provisions of section 73(1), any Director shall at any time be entitled to call a meeting of the Directors.
- 21.4 The Board has the power to –
- 21.4.1 consider any matter and/or adopt any resolution other than at a meeting as set out in section 74 and, accordingly, any decision that could be voted on at a meeting of the Board may instead be adopted by the written consent of a majority of the Directors, given in person or by Electronic Communication, provided that each Director has received notice of the matter to be decided;
 - 21.4.2 conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, as set out in section 73(3), provided that, as required by such section, the Electronic Communication facility employed ordinarily enables all persons participating in the meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting;
 - 21.4.3 determine the manner and form of providing notice of its meetings as set out in section 73(4), provided that –
 - 21.4.3.1 the notice period for the convening of any meeting of the Board will be at least 7 (Seven) Business Days unless the decision of the Directors is required on an urgent basis which justifies a shorter period of notice, in which event the meeting may be called on shorter notice. The decision of the Chairperson of the Board, or failing the Chairperson for any reason, the decision of any 2 (Two) Directors as to whether a matter should be decided on an urgent basis, and the period of notice to be given, shall be final and binding on the Directors;
 - 21.4.3.2 an agenda of the matters to be discussed at the meeting shall be given to each Director, together with the notice referred to in Article 21.4.3.1;

- 21.4.3.3 no meeting may be held if notice thereof and the agenda therefor is not given in accordance with Article 21.4.3.1 and 21.4.3.2; and
- 21.4.3.4 no matter may be discussed at a meeting unless the particular matter has been expressly included in the agenda given; and
- 21.4.3.5 proceed with a meeting despite a failure or defect in giving notice of the meeting, as provided in section 73(5),

and the powers of the Board in respect of the above matters are not limited or restricted by this Memorandum. The Board may unanimously elect to waive the above requirements.

21.5 The Board shall convene at least 10 (Ten) Board meetings during each calendar year, of which at least 3 (Three) meetings shall be held in person and not by means of Electronic Communication. Save as otherwise provided herein, the Directors are not required to hold any other meetings other than those specifically required by the Act.

21.6 The quorum requirement for a Directors' meeting (including an adjourned meeting) to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting are as follows –

21.6.1 if all of the Directors of the Company –

21.6.1.1 acknowledge actual receipt of the notice convening a meeting; or

21.6.1.2 are present at a meeting; or

21.6.1.3 waive notice of a 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;

21.6.2 1/3 (One Third) of the Directors must be present at a meeting before a vote may be called at any meeting of the Directors;

21.6.3 Subject to the provisions of Article 15.8, each Director has 1 (One) vote on a matter before the Board;

21.6.4 a majority of the votes cast on a resolution is sufficient to approve that resolution;

21.6.5 in the case of a tied vote –

- 21.6.5.1 the Chairperson may cast a deciding vote, if the Chairperson did not initially have or cast a vote; or
- 21.6.5.2 the matter being voted on fails in any other case.
- 21.7 Resolutions adopted by the Board –
- 21.7.1 must be dated and sequentially numbered; and
- 21.7.2 are effective as of the date of the resolution, unless any resolution states otherwise.
- 21.8 Any minutes of a meeting, or a resolution, signed by the Chairperson of the meeting, or by the Chairperson of the next meeting of the Board, are evidence of the proceedings of that meeting, or the adoption of that resolution, as the case may be.

22. COMMITTEES OF THE BOARD

- 22.1 The Board may –
- 22.1.1 appoint committees of Directors and delegate to any such committee any of the authority of the Board as set out in section 72(1); and/or
- 22.1.2 include in any such committee persons who are not Directors, as set out in section 72(2)(a),
- and the power of the Board in this regard is not limited or restricted by this Memorandum.
- 22.2 The authority of a committee appointed by the Board as set out in section 72(2)(b) and (c) is not limited or restricted by this Memorandum.
- 22.3 The Board shall ensure that the following committees, with their prescribed functions as set out in this Memorandum and the Act, are appointed at all times –
- 22.3.1 Remuneration Committee
- 22.3.1.1 The mandate of the Remuneration Committee shall be to establish fair and reasonable remuneration for the full-time employees of the Company. The Remuneration Committee shall consist of the President, Vice President(s) and Treasurer.
- 22.3.2 Ethics and Professional Practice Committee

22.3.2.1 The Ethics and Professional Practice Committee is mandated to investigate and adjudicate complaints against Members or Individual Affiliates as well as the settlement of fee disputes in accordance with the Ethics Codes and prevailing Company policy.

22.3.3 Professional Development Standards Committee

22.3.3.1 The Professional Development Standards Committee is mandated to manage the process of awarding, revoking and maintaining individual professional designations.

22.3.4 Regional Representatives Committee

22.3.4.1 It is acknowledged that Members within a specific geographic location or region shall share common interests associated with the staffing industry and Company affairs. The Regional Representatives Committee is mandated to drive regional initiatives, aligned to the national strategic imperatives, to facilitate local activities and to develop active Member communities.

22.3.4.2 The Regional Representatives Committee will be made up of all duly elected Regional Chairpersons within established regions and/or individual Members co-opted, to act as a Regional Representative, by the Board in developing regions.

23. DIRECTORS' PERSONAL FINANCIAL INTERESTS

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

23.2 The Director:

23.2.1 shall disclose the interest and its general nature before the matter is considered at the meeting;

23.2.2 shall disclose to the meeting any material information relating to the matter, and known to the Director;

- 23.2.3 shall disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors;
- 23.2.4 if present at the meeting, shall leave the meeting immediately after making any disclosure;
- 23.2.5 not take part in the consideration of the matter;
- 23.2.6 while absent from the meeting is to be regarded as being present at the meeting for the purpose of determining whether sufficient Directors are present to constitute the meeting, and 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
- 23.2.7 shall not execute any document on behalf of the Company in relation to the matter unless specifically requested or directed to do so by the Board.

24. STANDARDS OF DIRECTORS' CONDUCT

- 24.1 A Director of the Company shall not use the position of Director, or any information obtained while acting in the capacity of a Director to gain an advantage for the Director or for another person other than the Company or a wholly-owned subsidiary of the Company or to knowingly cause harm to the Company or a subsidiary of the Company and communicate to the Board at the earliest practicable opportunity any information that comes to the Director's attention, unless the Director reasonably believes that the information is immaterial to the Company or generally available to the public, or known to the other Directors; or is bound not to disclose that information by a legal or ethical obligation of confidentiality.
- 24.2 A Director of the Company shall exercise the powers and perform the functions of Director in good faith and for a proper purpose, in the best interests of the Company and with the degree of care, skill and diligence that may reasonably be expected of a person, carrying out the same functions in relation to the Company as those carried out by that Director, and having the general knowledge, skill and experience of that Director.
- 24.3 In respect of any particular matter arising in the exercise of the powers or the performance of the functions of Director in the best interest of the Company and with the necessary degree of care, skill and diligence of that Director –

- 24.3.1 the Director shall take reasonably diligent steps to become informed about the matter;
- 24.3.2 the Director has no material personal financial interest in the subject matter of the decision, and has no reasonable basis to know that any related person has a personal financial interest in the matter; or
- 24.3.3 the Director shall disclose any personal financial interest in advance to either the Board, with regard to that matter, and the Director has a rational basis for believing and shall believe, that the decision was in the best interests of the Company and is entitled to rely on:
 - 24.3.3.1 the performance by one or more employees of the Company whom the Director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports or statements provided;
 - 24.3.3.2 legal counsel, accountants or other professional persons retained by the Company, the Board or a committee as to matters involving skills or expertise that the Director reasonably believes are matters within the particular person's professional or expert competence or as to which the particular person merits confidence.

25. VALIDITY OF ACTS OF DIRECTORS AND COMMITTEES

As regards all persons dealing in good faith with the Company, all acts done by any meeting of the Directors or of a committee of Directors, or by any person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment or continuance in office of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified or had ceased to hold office or were not entitled to vote, be a valid as if every person had been duly appointed or was qualified or had continued to be a Director or was entitled to vote, as the case may be.

26. FINANCIAL ASSISTANCE TO DIRECTORS

- 26.1 The Company shall not loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to a Director of the Company or of a related or inter-related Company or to a person related to any such Director unless the transaction-
 - 26.1.1 constitutes an accountable advance to meet –

- 26.1.1.1 legal expenses in relation to a matter concerning the Company; or
- 26.1.1.2 anticipated expenses to be incurred by the person on behalf of the Company;
or
- 26.1.2 is to defray the person's expenses incurred on the Company's request;

27. INDEMNIFICATION OF DIRECTORS

- 27.1 The authority of the Company to indemnify a Director, in respect of the defence of legal proceedings, as set out in section 78(4), is not amended by this Memorandum.
- 27.2 The authority of the Company to indemnify a Director in respect of liability, as set out in section 78(5), is not amended by this Memorandum.
- 27.3 The authority of the Company to purchase insurance to protect the Company, or a Director, as set out in section 78(7), is not amended by this Memorandum.

28. COMPANY RULES

- 28.1 In terms of this Memorandum the Company is not limited from making, amending or appealing any Company Rules as contemplated in section 15(3) of the Act, and the Board's capacity to make such Rules is not hereby limited or restricted.
- 28.2 The Board shall publish these Company Rules in terms of section 15(3), (4) and (5) by delivering a copy of the Rules to each Member by publishing a copy of those Rules in any manner required or permitted by the Company's Memorandum, or the Rules of the Company, and filing a copy of those Rules.
- 28.3 Any Rules proposed by the Board will take effect 10 (Ten) Business Days after the filing of that Rule, or on the later date specified in the Rule. Any Rule that takes effect as contemplated in this sub-article shall remain binding on an interim basis until put to a vote at the next General Meeting of the Members of the Company and shall become permanently binding if ratified by a Member's resolution. In the event that a Rule may not be filed, the Board shall promptly inform each Member of this result by ordinary mail.
- 28.4 Within 10 (Ten) Business Days after any Rules of the Company have been put to a ratification, the Company shall file a notice in Form CoR 16.2 indicating whether the Rules have been ratified or rejected.

- 28.5 If a Rule that has been filed in terms of this Article is subsequently ratified, the Company shall file a notice of ratification within 5 (Five) Business Days in the prescribed manner and form, or not ratified when put to a vote, the Company shall file a notice of non-ratification within 5 (Five) Business Days after the vote, in the prescribed manner and form, and the Company's Board is prohibited by the Memorandum from making a substantially similar Rule within the ensuing 12 (Twelve) months, unless it has been approved in advance by an Ordinary Resolution of the Members.
- 28.6 Any failure to ratify the Rules of the Company shall not affect the validity of anything done in terms of those Rules during the period that they had an interim effect as provided in Article 28.3.
- 28.7 Within 10 (Ten) Business Days after any Rules of the Company have been amended, altered or repealed the Company shall file a notice in Form CoR 16.1 indicating the extent and effect of the change.
- 28.8 The Rules are binding between the Company, its Members and each Director of the Company, or any other person serving the Company as a member of a committee of the Board, in the exercise of their respective functions within the Company.

29. FUNDAMENTAL TRANSACTIONS

29.1 The Company shall not –

29.1.1 amalgamate or merge with, or convert to, a profit Company; or

29.1.2 dispose of any part of its assets, undertaking or business to a profit Company, other than for fair value, except that such disposition of an asset may occur in the ordinary course of the non-profit objectives of the Company.

30. ANNUAL FINANCIAL STATEMENTS

30.1 The Company shall keep all such accurate and complete accounting records, in English, as are necessary to enable the Company to satisfy its obligations in terms of –

30.1.1 the Act;

30.1.2 any other law with respect to the preparation of financial statements to which the Company may be subject;

30.1.3 the Regulations;

30.1.4 this Memorandum; and

30.1.5 the Company shall each year prepare annual financial statements within 6 (Six) months after the end of its financial year.

30.2 In the event that the annual financial statements of the Company –

30.2.1 are required to be audited pursuant to regulations made in terms of section 30(7), as contemplated in section 30(2)(b)(i), or as otherwise contemplated in this Memorandum or the Act, the annual financial statements shall be so audited in accordance with the relevant provisions of the Act; or

30.2.2 are required to be independently reviewed, as contemplated in section 30(2)(b)(ii)(bb), or as otherwise contemplated in the Act, the annual financial statements shall be so independently reviewed in accordance with the relevant provisions of the Act; or

30.2.3 are required to be audited, independently reviewed, or otherwise assessed in terms of any statute other than the Act, or a regulatory order, the Company shall comply with its relevant obligations in that regard.

31. ACCESS TO COMPANY RECORDS

31.1 In terms of the Act and the Memorandum, no person, other than a Member, shall have any right to inspect any accounting records or document of the Company, except the right to do so as conferred by the Companies Act or as authorised by the Board.

31.2 Every Member of the Company has the right to inspect and copy:

31.2.1 the Memorandum of Incorporation, any amendments to it and Company Rules (if applicable);

31.2.2 Annual Financial Statements;

31.2.3 notice and minutes of General Meetings;

31.2.4 reports presented at General Meetings;

31.2.5 records of Members and past Members.

- 31.3 The accounting records shall be kept at or be accessible from its Registered office. The accounting records shall be open to inspection by any of the Members at any time.
- 31.4 The Board may from time to time in its discretion, grant any person, on such terms and subject to such conditions and for such period(s) as the Board may from time to time determine in writing, the right to access (inspect and/or copy) any information pertaining to the Company, but no such right if conferred may negate or diminish any mandatory protection of any record, as set out in Part 3 of the Promotion of Access to Information Act, No.2 of 2000, as amended, provided further that the confidential information of the Company is adequately safeguarded and protected.
- 31.5 A person not contemplated in this sub-article of the Memorandum of Incorporation, has a right to inspect or copy the register of Members upon payment of an amount not exceeding the prescribed maximum fee for any such inspection.

32. NOTICES

- 32.1 All notices intended or required to be given by the Company to any Directors or Members of the Company shall be given in writing in any manner authorised by the Regulations.
- 32.2 Each Director and Member of the Company –
- 32.2.1 shall notify in writing to the Company an address, which address shall be his registered address for the purposes of receiving written notices from the Company by post and if he has not named such an address he shall be deemed to have waived his right to be so served with notices; and
- 32.2.2 shall notify in writing to the Company an email address and/or facsimile number, which address shall be his address for the purposes of receiving notices by way of Electronic Communication.
- 32.3 Save to the extent that any of the following provisions of this Article 32.3 may be in conflict with any provision contained in the Act or the Regulations, any notice sent by –
- 32.3.1 registered post to the last-known address of a Director or to a Unit of a Member, shall be deemed to have been delivered 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;

32.3.2 faxing the notice to a Director or a Member, if the Director or Member has a fax number, shall be deemed to have been delivered 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;

32.3.3 sending the notice to a Director or Member by electronic mail, if the Director or Member has an address for the receiving of electronic mail, shall be deemed to have been delivered on the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time,

any other means permitted in the said Regulations shall be deemed to have been delivered as provided for that method of delivery in such Table.

33. LIMITATION OF LIABILITY

No person shall, solely by reason of being a Member or Director of the Company, be liable for any liabilities or obligations of the Company.

34. WINDING-UP

34.1 The Company shall be wound up or dissolved as set out in the Act.

34.2 Upon the winding up or dissolution of the Company, no past or present Director of the Company, or a person appointing a Director of the Company shall be entitled to any part of the net value of the Company after its obligations and liabilities have been satisfied and the entire net value of the Company shall be distributed as set out below, provided that such distribution complies with the provisions of the Income Tax Act:

34.2.1 one or more non-profit companies carrying on activities within the Republic of South Africa;

34.2.2 voluntary Companies or non-profit trusts having the same object as the main objective of the Company;

34.2.3 as determined by the Directors immediately prior to the winding up or dissolution of the Company.

35. ADOPTION

This Memorandum was adopted by the Members of the Company by Special Resolution on _____ 2014.

SCHEDULE 1: PROXY FORM

MEMBER'S PROXY

_____ (PROPRIETARY) LIMITED

("Company")

I _____

of _____

being a Member of the abovementioned Company, hereby appoint

of _____

or else the Chairperson of the meeting as proxy to act on my behalf and in my interest at the Members' meeting of the Company to be held

on the _____ day of _____ 20____

and at any such meeting to speak and vote on my behalf. Unless requested otherwise as recorded below, my proxy may vote as he considers proper:

SIGNED AT _____ on this _____ day of _____ 20____

SIGNATURE
