

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

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**Memorandum of Incorporation**  
of  
**KHAISO FOUNDATION NPC**  
(Registration number 2024/642149/08)

This Company:

- is a Non-Profit Company;
- with members;
- who have voting rights and
- has elected to amend its existing Memorandum of Incorporation (“the Memorandum”) as described above by the substitution of it with this new Memorandum of Incorporation, as provided for in section 16(5)(a) of the Companies Act, 71 of 2008.

This Memorandum of Incorporation is based on the prescribed Form CoR 15.1E, but drafted in a form unique to this Company, as envisaged in section 13(1)(a)(ii) of the abovementioned Act.

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## INTERPRETATION AND DEFINITIONS

In this Memorandum, unless the context indicates otherwise –

“**Act**” means the Companies Act, No 71 of 2008;

“**alternate director**” shall have the meaning assigned to it in section 1 of the Act;

“**alumnus**” means a former student of a Khaiso High School;

“**Annual General Meeting**” or “**AGM**” means the Annual General Meeting which the Company has elected to convene as described in Article 3A;

“**Board**” means the Board of directors of the Company;

“**business day**” excludes the day on which one event occurs – and includes the day on which a second event occurs, and does not include any public holiday, Saturday or Sunday

“**chairperson**” means the chairperson from time to time of the Board, and

“**Deputy Chairperson**” means the person who will act in his stead as described in Article 4E;

“**Commission**” means the Companies and Intellectual Property Commission and “**Commissioner**”, the person appointed to this Office;

“**Company**” means Khaiso Foundation NPC, a non-profit company as defined in section 1 of the Act, with its shortened form of Khaiso Foundation;

“**Khaiso High School**” means the existing public high school bearing this name, also referred to as “the school”;

“**director**” means a member of the Board of the Company, or an alternate director;

“**financial year**” means the financial year of the Company which shall run from the first day of March in any year to the last day of February in the subsequent year;

“**in writing**” means written or produced by any substitute for writing and includes transmission to an electronic mail address;

**“member”** means an alumnus who is, or who became, a member of the Company in accordance with Article 2C;

**“Memorandum”** or **“this Memorandum”** is this Memorandum of Incorporation;

**“the office”** shall mean the registered office of the company;

**“person”**, includes a juristic person;

**“Publish”** or **“Published”** means the transmission of a written electronic notice directly to the intended recipient 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, as envisaged in section 6(10) of the Act;

Words and expressions used in the Memorandum but not defined above shall have the meaning, if any, as defined by the Act.

Words denoting the singular shall include the plural and words denoting either the masculine, female or neuter shall include the other of such genders.

Where any consent or approval is required for any act by a member, such consent or approval shall be:

- in writing and signed by the Company or its authorised agent;
- not be unreasonably withheld, and
- be given prior to the member taking such action.

The onus of proof with regard to the receipt of any notice given or payment made by a member shall be on the giver of the notice or the maker of the payment.

In the Memorandum-

- a reference to a section by number refers to the corresponding section of the Act;
- Any Schedule attached to this Memorandum is part of this Memorandum.

## **Article 1 – Incorporation, Objects and Nature of the Company**

### **A. Incorporation**

The Company is incorporated as a Non-Profit Company (NPC) as defined in the Act.

The Company is incorporated in accordance with, and governed by–

- the unalterable provisions of the Act that are applicable to non-profit companies;
- the alterable provisions of the Act that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in the Memorandum; and
- the provisions of the Memorandum.

### **B. Vision, Mission, and Values of the Company**

#### **Vision:**

An innovative and inclusive educational environment that empowers learners and teachers with the skills and confidence to succeed and drive positive change in their communities.

#### **Mission:**

The empowerment of Khaiso High School and its community by fostering academic excellence, alumni support, and the promotion of growth in learners' lives.

### **C. Values:**

**Integrity & honesty** – Doing the right thing even when no one is watching and always telling the truth.

**Transparency** – Being open about decisions, actions, and information so everyone understands what's happening

**Inclusivity** – Making sure everyone feels welcomed, valued, and involved, regardless of differences.

**Accountability** – Taking responsibility for actions and fixing mistakes.

**Commitment** – Staying dedicated to a goal, task, or promise, even when things get tough.

**Dependability** – Being reliable so that others can trust you to do what you say you will.

#### **D. Objects and Powers of the Company**

##### **Objects:**

- 1) To enable the school to leverage its network of Alumni in the community to drive the school's transformation agenda;
- 2) To provide a platform for alumni to continue a relationship with the school beyond graduation;
- 3) To provide an ongoing relationship between old and current learners;
- 4) To nurture the school's heritage and history dating back to its origins and contribute to nation-building;
- 5) To raise, administer, and distribute the funds donated to the Company on its behalf. This includes, in the discretion of the board, and depending upon the availability of funding, the provision of bursaries to deserving learners;
- 6) To embark on and execute projects identified by the Company for the benefit of the school's development and of its learners;
- 7) To work closely with the school to ensure that the programs of the Departments of Education, Department of Social Services, and Department of Sport and Recreation are implemented and achieved, in cases where these programs are within the Company's means and expertise;
- 8) To provide ongoing general support to the school to enable it to meet its obligations to provide education as contemplated in the South African Schools Act, 84 of 1996.
- 9) To provide and improve school buildings and infrastructure to ensure that the school attains its objectives as foreseen in the Schools Act, adequately and competently;
- 10) To initiate and support programs addressing needs in education, learning, teaching, training, curriculum support, governance, whole school development, safety, and security in the school.

11) To provide educational enrichment, academic support, supplementary tuition and outreach programs, career advice, guidance, and exposure for the school.

**Powers:**

1) The objects, the purposes and the powers of the Company are not subject to any restriction, limitation or qualification, as contemplated in section 19 (1)(b)(ii) of the Act.

2) The Company is not subject to any provision contemplated in section 15 (2)(b) or (c) of the Act.

3) The Company –

(a) must apply all of its assets and income, however derived, to advance its stated objects, as set out in its Memorandum; and

(b) subject to paragraph (a), may –

i) acquire and hold securities issued by a profit Company; or

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

4) The Company must not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless of how the income or asset was derived, to any person who is or was an incorporator of the Company, or who is a member or director, or person appointing a director, of the Company, except—

a) as reasonable-

i) remuneration for goods delivered or services rendered to, or at the direction of, the Company; or

ii) payment of, or reimbursement for, expenses incurred to advance a stated object of the Company;

- b) as 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;
  - c) 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
  - d) in respect of any legal obligation binding on the Company.
- 5) Upon the winding-up or dissolution of the Company-
- a) no past or present member or director of the Company, or person appointing a director of the Company, is entitled to any part of the net value of the Company after its obligations and liabilities have been satisfied; and
  - b) the entire net value of the Company must be distributed to one or more non-profit companies which have been approved in terms of section 30 of the Income Tax Act; any institution, board or body which is exempt from the payment of income tax in terms of the provisions of section 10(1) (cA) (i) of the Income Tax Act which has as its sole or principal object the carrying on of any public benefit activity; or any department of state or administration in the national or provincial or local sphere of Government of the Republic, contemplated in section 10(1)(a) or (b) of the Income Tax Act; external non-profit companies carrying on activities within the Republic, voluntary associations or non-profit trusts with the same or similar tax concessions as mentioned in the two above-mentioned sections of the Income Tax Act— having objects similar to its main object; and as determined—
    - (aa) in terms of the Company’s Memorandum;
    - (bb) by its members, if any, or its directors, at or immediately before the time of its dissolution; or
    - (cc) by the court, if the Memorandum, or the members or directors fail to make such a determination.

- 6) The Company may not -
- a) amalgamate or converge with , or convert to, a profit Company, or
  - b) 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 normal course of business or activities of the Company.
- 7) At least three persons who accept fiduciary responsibility for the Company will not be connected persons in relation to each other and no single person, directly or indirectly, may control the decision-making powers relating to the Company.

8) Application of the net income of the Company:-

At least 75% (seventy five percent) of the net income of the Company will be applied in achieving its main object, within a period of 12 (twelve) months from the end of the financial year in which it were accumulated.

9) Special Conditions related to section 18A of the Income Tax Act:

- (1) No activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of the Company (*a public benefit organisation within the context of section 18A*) otherwise than by way of reasonable remuneration.
- (2) The funds of the Company will be used solely for the objects for which it was established, namely the Qualifying Public Benefit Activity of “*Education and Development*” as set out in Article 1C in pages 4 and 5 of this Memorandum.
- (3) At least three persons will accept fiduciary responsibility for this Company/public benefit organisation. They will not be connected persons in relation to each other and no single person, directly or indirectly, controls the decision making powers relating to such organisation.
- (4) No funds will be distributed to any person, other than in the course of the Company’s undertaking of its public benefit activities.

(5) Dissolution:

Upon the winding-up or dissolution of the Company, the remaining assets must be transferred to:

- (a) another public benefit organisation which has been approved in terms of section 30 of the Income Tax Act;
  - (b) any institution, board or body which is exempt from the payment of income tax in terms for section 10(1)(cA)(i) of the Act, which has as its sole or principal object the carrying on of any public benefit activity; **or**
  - (c) any department of state or administration in the national or provincial or local sphere of government of the Republic contemplated in section 10(1)(a) or (b) of the Act.
- (6) No donation will be accepted which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A: Provided that the donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying of any public benefit activity) may not impose any conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.
- (7) A copy of all amendments to this Memorandum of Incorporation will be submitted to the Commissioner of the South African Revenue Services.
- (8) The Company will not be a party to, or will not knowingly permit, or has not knowingly permitted, itself to be used as a part of any transaction, operation or scheme of which the sole or main purpose is the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under this Act or any other Act administered by the Commissioner;

- (9) No remuneration will be paid to any employee, office bearer, member or other persons which is or may be regarded as excessive, having regard to what is generally considered reasonable in the sector and in relation to the services rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects;
- (10) No resources will be used, directly or indirectly, to support, advance or oppose any political party.
- (11) The activities of the Company are to be carried on in a non-profit manner and with the altruistic or philanthropic intentions as set out in this Memorandum of Incorporation.
- (12) The Company will not carry on any business undertaking or trading activity unless specifically permitted in terms of section 10(1)(cN) of the Income Tax Act.
- (13) The Company will comply with reporting requirements as may be determined by the Commissioner for the South African Revenue Services.

**E.** All public benefit activities carried on by the Company will be for the benefit of, or widely accessible to, the general public at large, including any sector thereof, other than small and exclusive groups.

**F. Memorandum and Company rules**

- 1) The Memorandum may only be altered or amended-
  - a) In compliance with a court order;
  - b) If a special resolution to amend it -
    - i. is proposed by the Board or
    - ii. members entitled to exercise at least 10% of the voting rights that may be exercised on such a resolution; and
    - iii. is adopted at a members meeting or in accordance with section 60.

## 2) **Company Rules:**

The Board may make, amend or repeal any necessary or incidental rules relating to the governance of the Company in respect of matters that are not addressed in the Act. In accordance with section 15(6) of the Act, the Memorandum and the Rules of the Company, are equally binding between-

- a) the Company and each member;
- b) the members of the Company and
- c) the Company and each director and officer of the Company.

## **G. Optional provisions of Companies Act**

The Company elects, in terms of section 34(2), to comply voluntarily with the requirements of Chapter 3 of the Act, in that the Company shall appoint an auditor and re-appoint an auditor each year at its Annual General Meeting in accordance with sections 84(1)(c) read with section 90(1) of the Act.

## **Article 2: Membership of the Company**

### **A. Members**

**B.** The Company shall have members.

### **C. Qualification for Membership**

A member shall -

- a) be a natural person who is an alumnus of Khaiso High School and who has attended at least one calendar year or one standard or grade at the school, and
- b) who has applied for membership and has been admitted as such by the board;

### **D. Process for applying for membership:**

- a) A person who qualifies for membership may apply in writing to the Company for membership at any time. The board shall consider such an application by informal consultation by board members and inform the applicant of the outcome of her/his application.
- b) Such an application shall be free of cost.
- c) The board shall determine the annual fee for membership at each of its Annual General Meeting.

### **E. Rights and obligations of members:**

- a) Members must attend the AGM of the Company and all other members' meetings of the Company unless an acceptable excuse for non-attendance can be advanced. In such an event, a member shall ensure that a proxy is appointed to attend a meeting on his/her behalf. Such a proxy need to qualify for membership of the Company as described in C and D above.
- b) The board may revoke the membership of members who fail to attend two successive such meetings or who fail to pay the annual membership fee.
- c) Every member in good standing (*who has made the prescribed payment of membership for the calendar year*) shall have equal voting rights, namely one vote at member's meetings.

- d) A member is qualified to be elected as a director of the board.
- e) The voting rights of all members in good standing are equal, namely one vote per member;
- f) The Company shall maintain a register of members in the same manner as required for companies with shareholders. This register shall be open to inspection in accordance with the provisions of section 26 of the Act.
- g) The rights and obligations of a member shall not be transferable and every member shall to the best of his/her ability promote the objects and interests of the Company.

**F. Honorary Members:**

The board, in its discretion, may appoint individuals –

- a) who are not alumni of the school;
- b) who are not required to pay members' fees;
- c) who will not have voting rights in any meetings of members and of the board -
- d) in recognition of their contribution to the vision and objectives of the Company, and
- e) who will be known as "*Honorary Members*".
- f) These Honorary Members may participate in all of the activities of the Company, including all members' and board meetings subject to invitation by the board or for a specific purpose.

## **Article 3: Members' Meetings**

### **A. Requirement to hold meetings**

- 1) The Company is required to hold members meetings, in addition to those specifically required by the Companies Act, 2008, namely Annual General Meetings, in the same way as a public Company is obliged to hold such meetings as described in section 61(7) of the Act. The Company must hold Annual General Meetings once every calendar year, but no more than 15 (fifteen) months after the date of the previous annual general meeting, or within an extended time allowed by the Companies Tribunal, on good cause shown.
- 2) Annual General Meetings – at a minimum, shall provide for the following businesses to be transacted, namely:
  - a) consideration, discussion and approval of minutes of previous AGM;
  - b) directors' report;
  - c) financial statements for the immediately preceding financial year;
  - d) election of directors as provided for by the Act, except for the filling of a vacancy of the Board, which may be effected through a members meeting or through written polling of all voting members in accordance with section 60(3);
  - e) consideration of the members' fees for the financial year during which the Annual General Meeting takes place;
  - f) appointment/re-appointment of auditor in accordance with Article 1E, above and
  - g) any matters raised by members, with or without advance notice to the Company.
- 3) All meetings other than Annual General Meetings shall be referred to as members' meetings.

## **B. Proxies**

### **1) Representation by concurrent proxies**

The right of the members of the Company to appoint two or more persons concurrently as proxies, as set out in section 58(3)(a), is limited, and only one person may be appointed as a proxy.

### **2) Authority of proxy to delegate**

A member's proxy does not have authority to delegate its powers to another person, as contemplated in section 58(3)(b) of the Act.

### **3) Requirement to deliver proxy instrument to the Company**

A copy of the instrument appointing a proxy must be delivered to the Company prior to the commencement of the members meeting at which the proxy is entitled, in terms of such a proxy, to exercise any rights on behalf of the member. The directors, however, may from time to time determine that proxies are to be lodged at a particular venue.

### **4) Deliberate authority of proxy**

A proxy is entitled to vote in favour, against or to abstain from exercising, any voting rights of a member without direction, except to the extent that the instrument appointing the proxy, provides otherwise.

### **5) A proxy appointment-**

- a) must be in writing, dated and signed by the member and –
- b) remains valid for one year after the date on which it was signed; or
- c) any longer or shorter period expressly set out in the appointment, unless it is revoked earlier as provided for in sub-Article 6 below.
- d) A proxy needs to be a member of the Company.

## **6) Revocation, suspension of Proxy**

- a) The appointment of a proxy is suspended at any time and to the extent that the member chooses to act directly and in person in the exercise of any rights as a member.
- b) The appointment of a proxy is revocable unless the proxy appointment expressly states otherwise, and
- c) if the appointment is revocable, a member may revoke the proxy appointment by:
  - i) cancelling it in writing, or making it a later inconsistent appointment of a proxy; and
  - ii) delivering a copy of the revocation instrument to the proxy and to the Company.

## **C. Members' Meetings:**

### **1) Members' right to requisition a meeting**

- a) The board must call a members meeting if one or more written and signed demands for such a meeting are delivered to the Company, and—
- b) each such demand describes the specific purpose for which the meeting is proposed; and
- c) in aggregate, demands for substantially the same purpose are made and signed by the holders, as the earliest time specified in any of those demands, of at least 10% of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.
- d) At any time before the start of a members meeting, a member who submitted a demand for that meeting may withdraw that demand; and
- e) the Company must cancel the meeting if, as a result of one or more demands being withdrawn, the voting rights of any remaining members continuing to demand the meeting, in aggregate, fall below the minimum percentage of voting rights required to call a meeting.

## 2) **Location of members meetings**

The board at its own discretion can determine the location of the meeting to be either physical or online.

## 3) **Notice of meetings**

The Company must deliver a notice of each members' meeting in the prescribed manner and form to all of the members of the Company at least 15 (fifteen) business days before the meeting is to begin.

## 4) **The manner in which a notice should be delivered is:**

- a) electronic delivery (email) to all members at their email addresses recorded with the Company in accordance with the provisions of section 6(10) and (11) of the Act, or
- b) on Whatsapp group chat created for members of the Company, or
- c) delivery by hand to a member of the notice by any representative of the Company, in which case the Company should require the signature of the member as proof of delivery.

## 5) A notice of a members' meeting must be in writing, and must include—

- a) the date, time and place for the meeting;
- b) the general purpose of the meeting, and any specific purpose contemplated in section 61(3)(a) of the Act, if applicable;
- c) a copy of any proposed resolution of which the Company has received notice, and which is to be considered at the meeting, and a notice of the percentage of voting rights that will be required for that resolution to be adopted;

## 6) in the case of an Annual General Meeting of the Company—

- a) a summarised form of the financial statements to be presented; and

- b) directions for obtaining a copy of the complete annual financial statements for the preceding financial year; and
- c) a reasonably prominent statement that—
  - i member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend, who may participate in and vote at the meeting in the place of the member;
  - ii a proxy need not be a member of the Company; and
  - iii that section 63(1) requires that meeting participants provide satisfactory identification.

**7) Electronic participation in members meetings:**

The authority of the Company to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 63 is not limited or restricted by this Memorandum.

**8) Quorum for members meetings:**

The quorum requirement for a members meeting to begin, or for a matter to be considered are:

- a) A members meeting may not begin until at least 25% (twenty five percent) of the members are present personally or by proxy and entitled to vote in respect of at least one matter to be decided at the meeting; and
  - b) a matter to be decided at the meeting may not begin to be considered unless 25% (twenty five percent) of the members are present personally or by proxy at the meeting on that matter at the time the matter is called on the agenda.
- 9) If, within half an hour after the appointed time for a meeting to begin, the quorum requirements:
- a) for that meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, for one week;
  - b) for consideration of a particular matter to begin have not been satisfied—

- i. if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
  - ii. if there is no other business on the agenda of the meeting, the meeting is adjourned for one week, without motion or vote.
- 10) The Company is not required to give further notice of a meeting that is postponed or adjourned unless the location for the meeting is different from—
- a) the location of the postponed or adjourned meeting; or
  - b) a location announced at the time of adjournment, in the case of an adjourned meeting.
- 11) If, at the time appointed for a postponed meeting to begin, or for an adjourned meeting to resume, the required quorum has not been satisfied, the members of the Company present in person or by proxy will be deemed to constitute a quorum.
- 12) 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 one member is present at the meeting.
- 13) **Adjournment of members meetings:**

Subject to section 64(13) of the Act, a meeting may not be adjourned beyond the earlier of—

- a) the date that is 120 business days after the record date determined in accordance with section 59; or
- b) the date that is 60 business days after the date on which the adjournment occurred.
- c) A meeting may be adjourned from time to time without further notice, on a motion supported by a majority of voting members.
- d) No business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. Unless the adjournment was adjourned “until further notice”, no notice of the adjourned meeting need to be given.

#### **14) Conduct of meetings:**

- a) The Chairperson of the Board of Directors, or in his absence, the Deputy Chairperson, shall preside as chairperson at all members' meetings. If none of them are present, the members present and entitled to vote may elect a chairperson for the meeting, who shall exercise all the powers and duties of the Chairperson at that meeting.
- b) Before any person may attend or participate in a members meeting —
  - i. that person must present reasonably satisfactory identification; and
  - ii. the person presiding at the meeting must be reasonably satisfied that the right of that person to participate and vote, either as a member, or as a proxy for a member, has been reasonably verified.

#### **15) Voting**

- a) At a meeting of members, voting shall be by a show of hands.
- b) no person other than a duly registered member, whose membership fee has been paid to date shall be entitled to be present or to vote on any resolution, either personally or by proxy, at any general meeting;

#### **16) Members resolutions:**

- a) For an ordinary resolution to be approved by members, it must be supported by at least 51% of the voting rights exercised on the resolution.
- b) For a special resolution to be approved by members, it must be supported by at least 75% of the voting rights exercised on the resolution. A special resolution adopted at a members meeting is not required for any other matter except those matters set out in section 65 (11) of the Act, as amended.
- c) In the case of an equality of votes, the Chairperson has no casting vote, and the resolution voted upon, fails.

## **Article 4: The Board**

### **A. Board Members**

- 1) The Board of Directors of the Company comprises of at least 3 (three) directors.
- 2) A director must be a member of the Company.
- 3) A director is elected for a period of 3 (three) years and may be re-elected.
- 4) A person who is ineligible or disqualified may not be appointed or elected as a director of a company.

The following persons are ineligible or disqualified to be a director:

- i. A juristic person;
  - ii. An unemancipated minor;
  - iii. A person prohibited by a court from serving as such, or having been declared to be delinquent in terms of the Companies Act;
  - iv. An unrehabilitated insolvent;
  - v. A person prohibited by public regulation from being a director;
  - vi. A person convicted of a crime and imprisoned without the option of a fine or fined more than the prescribed amount, for any offence involving theft, fraud, dishonesty, forgery, perjury, or in connection with the formation and management of a company, or in terms of the Insolvency Act, 1936, the Close Corporations Act, 1984, the Competition Act, the Financial Intelligence Centre Act, 2001, the Security Services Act, 2004 or the Prevention and Combating of Corruption Activities Act, 2004.
- 5) The authority of the board to fill any vacancy on the board on a temporary basis, as set out in section 68(3), is not limited or restricted by this Memorandum.

## **B. Vacation of Office of director**

A director shall be deemed to have vacated his/her Office when he/she becomes ineligible or disqualified while in Office or he/she:-

- 1) becomes unsound of mind;
- 2) resigns as such;
- 3) passes away, or
- 4) is removed from office.
- 5) A person who becomes ineligible or disqualified while serving as a director of the Company ceases to be a director of the Company immediately.

## **C. Appointment of Chairperson and Deputy Chairperson**

The board shall elect these positions from their number, at the first meeting after their election.

## **D. Control of meetings**

The Chairperson shall preside at all meetings of the board and all general meetings of members and shall perform all duties incidental to the Chairperson and such other duties that may be prescribed by the board or the members.

## **E. Control of meetings in absence of Chairperson**

The Vice Chairperson shall assume the powers and duties of the Chairperson in his absence and shall perform such other duties as may from time to time be assigned to him by the Chairperson or the board. In the event of the absence of the Vice Chairperson from a meeting the remaining directors shall appoint a Chairperson for that meeting.

## **F. Directors' remuneration**

The directors shall be entitled to be repaid all reasonable and bona fide expenses incurred by them respectively in the performance of their duties as directors, chair-, or vice chairpersons.

## **G. Alternate directors**

A director shall have the power to appoint another person to act as an alternate director in his place, and at his discretion to remove such alternate and appoint another in his place, provided that the appointment of such alternate director shall be approved of by the Board. On such appointment being made and approved, the alternate director shall in all respects be subject to the terms and conditions existing with reference to the other directors of the Company. An alternate director, whilst acting in the place of the director appointing him shall exercise and discharge all the duties and functions of the directors he represents as if he were a director and not as agent of the director appointing him. The appointment of an alternate director shall be cancelled, and the alternate shall cease to hold office whenever the director who appointed him shall cease to be a director, or shall give notice in writing to the secretary that the alternate director representing him shall have ceased to do so.

## **H. Termination of Office of Board Members**

The office of a director on the Board shall be terminated:

- 1) when he no longer is a member of the Company as required in Article 5A(2);
- 2) when he becomes ineligible or disqualified as described in Article 5A(4), above;
- 3) upon his resignation from the Board;
- 4) upon his removal as director in accordance with the provisions of section 71 of the Act.

## **I. Vacancies in the Board**

If a vacancy arises on the Board, it must be filled by means of:

- 1) a new appointment, if the director concerned was initially appointed; or
- 2) a new election, if the director concerned was initially elected, as foreseen in the provisions of section 70 of the Act.

## **J. Authority of the Board of Directors**

The business and affairs of the Company must be managed by or under the direction of the Board, which has the authority to exercise all of the powers and perform any of the functions of the Company. This authority of the Board is not limited or restricted by the Memorandum.

## **K. Delegation of Authority**

In accordance with the enabling provisions of section 66(1) of the Act, the board of this Company may from time to time in its discretion, transfer such powers mentioned in sub-article J above, to:

- 1) the Chairperson or Vice Chairperson;
- 2) a number of directors to act as day-to-day directors or
- 3) a Manager,

and the Board may transfer any such power or authority for any period it elects.

## **L. Board committees**

- 1) The board is authorised to appoint committees of directors, and to delegate to any such committee any of the authority of the board, as set out in section 72(1), and to include in any such committee persons who are not directors, as set out in section 72(2)(a), as long as such committee members are not ineligible or disqualified from being directors in terms of the Companies Act or this Memorandum of Incorporation.
- 2) A committee appointed by the board has the full authority of the board in respect of a matter referred to it, and may consult with or receive advice from any person.

## **M. Board meetings**

- 1) The directors may meet for the dispatch of the business of the Company, adjourn and otherwise regulate their meetings as they deem fit, subject to any applicable provisions in this Memorandum.
- 2) Meetings of the board shall be held at least once every quarter, provided that no meeting needs to be held in a quarter, if so waived in writing by all the directors.

- 3) The quorum required for the holding of a board meeting is a majority of directors present at a meeting.
- 4) The directors shall cause minutes to be taken of every board meeting, although not necessarily *verbatim*, which minutes shall be reduced to writing without undue delay after the meeting has closed and shall then be certified correct by the chairperson of the meeting. All minutes of board meeting shall, after certification, be placed in a board meetings minutes book to be kept in accordance with section 73(6) and (7) of the Act. Such a minutes book shall be open for inspection at all reasonable times by a director or the members.
- 5) All competent resolutions recorded in the minutes shall be valid and of full force and effect as therein recorded with effect from the passing of the resolutions. No resolution shall be of any effect if it was passed without the authority of the board.
- 6) The proceedings of board meetings shall be conducted in such reasonable manner and form as the chairperson of the meeting shall decide.

**N. Directors acting other than at meeting:**

- 1) Except to the extent that the Memorandum of the Company provides otherwise, a decision that could be voted on at a meeting of the Board of the Company may instead be adopted by 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.
- 2) A decision made in the manner contemplated in this section is of the same effect as if it had been approved by voting at a board meeting.

**O. A director authorized by the board:**

- 1) may call a meeting of the Board at any time; and
- 2) must call such a meeting if required to do so by at least two directors.

**P. Meetings: electronic communication:**

- 1) a meeting of the Board may be conducted by electronic communication; or

2) one or more directors may participate in a meeting by electronic communication, so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

**Q.** The Board, without restrictions or limitations, may determine the form and time for giving notice of its meetings, but no meeting of the Board may be convened without notice to all of the directors.

**R.** Defective notice or failure to give notice of meeting:

If all of the directors of the Company—

- 1) acknowledge actual receipt of the notice;
- 2) are present at a meeting; or
- 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.

**S.** The Board may decide upon the venue of its meetings as it deems fit.

**T.** Each director has one vote on a matter before the Board;

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

In the case of a tied vote—

- 1) the Chairperson may cast a deciding vote in addition to his deliberative vote; or
- 2) the matter being voted on fails, in any other case.

**U. Officers**

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

## V. Indemnification of Directors

- 1) The authority of the Board to advance expenses to a director to defend litigation in any proceedings arising out of the director's service to the company as set out in section 78 (4) of the Act is not limited or restricted by the Memorandum, and the Company-
- 2) may directly or indirectly indemnify a director for expenses contemplated in clause (1), irrespective of whether it has advanced those expenses, if the proceedings—
  - a) are abandoned or exculpate the director; or
  - b) arise in respect of any liability for which the company may indemnify the director, in terms of subsections (5) and (6) of section 78(4) of the Act.
- 3) The authority of the Board to indemnify a director in respect of liability, as set out in section 78(5), is not limited or restricted by the Memorandum. The Company indemnifies a director in respect of any liability arising from any loss, damages or costs sustained by the Company, except in cases where such liability occurred as a direct or indirect consequence of the director having—
  - a) acted in the name of the Company, signed anything on behalf of the Company, or purported to bind the Company or authorise the taking of any action by or on behalf of the Company, despite knowing that the director lacked the authority to do so;
  - b) acquiesced in the carrying on of the Company's business despite knowing that it was being conducted in a manner prohibited by section 22(1) C (reckless and trading under insolvent circumstances by the Company);
  - c) been a party to an act or omission by the Company despite knowing that the act or omission was calculated to defraud a creditor, employee or member of the Company, or had another fraudulent purpose;
  - d) signed, consented to, or authorised, the publication of any financial statements that were false or misleading in a material respect.

- 4) The authority of the Board to purchase insurance to protect the Company, or a director, as set out in section 78 (6) is not limited or restricted by the Memorandum.