

THE COMPANIES ACT, NO. 71 OF 2008

(AS AMENDED)

MEMORANDUM OF INCORPORATION

OF

THE SHAZH FOUNDATION

A NON-PROFIT COMPANY WITHOUT MEMBERS

REGISTRATION NUMBER:

REGISTRATION DATE:

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1 INTERPRETATION

- 1.1 In this Memorandum of Incorporation, unless the context clearly indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings —
- 1.1.1 "**Accounting Officer**" means an "accounting officer" as defined in the NPO Act;
- 1.1.2 "**Act**" means the Companies Act, No 71 of 2008, as amended, consolidated or re-enacted from time to time, and includes all Schedules to such Act and the Regulations;
- 1.1.3 "**Board**" means the board of Directors from time to time of the Company or if there is only one Director, then that Director;
- 1.1.4 "**CIPC**" means the Companies and Intellectual Property Commission established by section 185;
- 1.1.5 "**Commissioner**" means the Commissioner for the South African Revenue Service;
- 1.1.6 "**Company**" means the company named on the first page of this Memorandum of Incorporation, duly incorporated under the registration number endorsed thereon;
- 1.1.7 "**Director**" means a member of the Board as contemplated in section 66, or an alternate director, and includes any person occupying the position of a director or alternate director, by whatever name designated;
- 1.1.8 "**Electronic Communication**" has the meaning set out in section 1 of the Electronic Communications and Transactions Act, No 25 of 2002;
- 1.1.9 "**IFRS**" means the International Financial Reporting Standards, as adopted from time to time by the Board of the International Accounting Standards Committee, or its successor body, and approved for use in South Africa from time to time by the Financial Reporting Standards Council established in terms of section 203;
- 1.1.10 "**Income Tax Act**" means the Income Tax Act, No 58 of 1962;
- 1.1.11 "**Memorandum of Incorporation**" means this memorandum of incorporation of the Company, as amended from time to time;
- 1.1.12 "**Nonprofit Organisation**" means a nonprofit organisation as defined in the NPO Act;
- 1.1.13 "**NPO Act**" means the Nonprofit Organisations Act, No 71 of 1997;
- 1.1.14 "**NPO Director**" means the Director of Nonprofit Organisations, designated in terms of section 8 of the NPO Act;
- 1.1.15 "**Regulations**" means the regulations published in terms of the Act from time to time;

- 1.1.16 "**Republic**" means the Republic of South Africa; and
- 1.1.17 "**Rules**" means any rules made in respect of the Company from time to time as contemplated in section 15(3) to (5) of the Act and clause 21 hereof.
- 1.2 In this Memorandum of Incorporation, 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 this this Memorandum of Incorporation is lodged with the Commission for filing;
- 1.2.3 in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this Memorandum of Incorporation and –
- 1.2.3.1 an alterable or elective provision of the Act, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict; and
- 1.2.3.2 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 unless the Memorandum of Incorporation imposes on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement, in which event the relevant provision of this Memorandum of Incorporation shall prevail to the extent of the conflict;
- 1.2.4 clause headings are for convenience only and are not to be used in its interpretation;
- 1.2.5 an expression which denotes —
- 1.2.5.1 any gender includes the other genders;
- 1.2.5.2 a natural person includes a juristic person and *vice versa*; and
- 1.2.5.3 the singular includes the plural and *vice versa*;
- 1.2.6 if the due date for performance of any obligation in terms of this Memorandum of Incorporation 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;
- 1.2.7 any words or expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout the whole of this Memorandum of Incorporation;

- 1.2.8 a reference to a consecutive series of two or more clauses is deemed to be inclusive of both the first and last-mentioned clauses; and
- 1.2.9 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 permitted in terms of the Act and/or the Regulations.
- 1.3 Any reference in this Memorandum of Incorporation to –
- 1.3.1 "**days**" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic from time to time;
- 1.3.2 "**law**" means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law and a reference to any statutory enactment shall be construed as a reference to that enactment as amended or substituted from time to time;
- 1.3.3 "**writing**" means legible writing and in English and includes printing, typewriting, lithography or any other mechanical process, as well as any electronic communication in a manner and form permitted in terms of the Act and/or the Regulations.
- 1.4 The words "**include**" and "**including**" mean "include without limitation" and "including without limitation". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 1.5 Unless otherwise provided in this Memorandum of Incorporation 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.
- 1.6 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.
- 1.7 Any reference herein to "**this Memorandum of Incorporation**" or any to other agreement or document shall be construed as a reference to this Memorandum of Incorporation or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.

2 JURISTIC PERSONALITY

- 2.1 The Company is incorporated as a non-profit company without members, as defined in the Act, and has juristic personality from the date and time that the incorporation of the Company is registered, as stated in its registration certificate and as contemplated in section 19(1).
- 2.2 The Company is incorporated in accordance with and governed by –
- 2.2.1 the unalterable provisions of the Act, subject only to such higher standards, greater restrictions, longer periods of time or similarly more onerous requirements as may be imposed on the Company by this Memorandum of Incorporation in relation to such unalterable provisions;
- 2.2.2 the alterable provisions of the Act, subject to the limitations, extensions, variations or substitutions set out in this Memorandum of Incorporation;
- 2.2.3 the other provisions of this Memorandum of Incorporation; and
- 2.2.4 its Rules, if any.

3 OBJECT

- 3.1 The Objects, purposes and powers of the Company are not subject to any restriction, limitation or qualification, as contemplated in section 19 (1)(b)(ii).
- 3.2 The organisation's main objectives are to:
- 3.2.1 Provide public benefit activities, focusing on providing education, sports and related funding and or bursary opportunities for learners primarily resident in the greater Durban area in KwaZulu Natal, South Africa;
- 3.2.2 Provide scholarships, bursaries and awards for study, research, teaching and coaching (Part 1 of section 4(o) of the Ninth Schedule of the Income Tax Act);
- 3.2.3 Provide career guidance and academic counselling services to persons attending any school or higher education institution (Part 1 of section 4(k) of the Ninth Schedule of the Income Tax Act);
- 3.2.4 Maintain and or manage financial aid / sponsorship scheme/s;
- 3.2.5 and to do all other lawful things as may be incidental or conducive to the attainment of the foregoing objectives including, but not limited to, operating such enterprises and trading businesses as deemed appropriate and necessary from time to time to in order to demonstrably support its main objective.

3.3 The provisions of this Memorandum of Incorporation are consistent with the principles set out in item 1(2) to item 1(6) of Schedule 1 to the Act in so far as such principles are applicable to the Company and no amendment of this Memorandum of Incorporation shall be competent to the extent that it is contrary to or negates any of such principles.

4 NON-PROFIT COMPANY PROVISIONS

4.1 The Company is a non-profit company, and accordingly the Company –

4.1.1 must apply all of its assets and income, however derived, to advance its stated objects set out in clause 3.1; and

4.1.2 subject to clause 4.1.1, may –

4.1.2.1 acquire and hold securities issued by a profit company; or

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

4.2 The Company, as a non-profit company, must not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless as to how the income or asset was derived, to any person who is or was an incorporator of the Company, or who is a Director, or person appointing a Director of the Company, except –

4.2.1 as reasonable –

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

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

4.2.2 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;

4.2.3 as 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

4.2.4 in respect of any legal obligation binding on the Company.

4.3 Despite any provision in any law or agreement to the contrary, upon the winding-up or dissolution of the Company –

4.3.1 no past or present Director of the Company, or person appointing a Director of the Company, is entitled to any part of the net value of the Company after its obligations and liabilities have been satisfied; and

- 4.3.2 the entire net value of the Company must be distributed to one or more non-profit companies, registered external non-profit companies carrying on activities within the Republic, voluntary associations or non-profit trusts –
- 4.3.2.1 having objects similar to the Company's main object;
- 4.3.2.2 as determined –
- 4.3.2.2.1 in terms of this Memorandum of Incorporation; or
- 4.3.2.2.2 by the Directors, at or immediately before the time of its dissolution; or
- 4.3.2.2.3 by the court, if no such determination is made in this Memorandum of Incorporation or by the Directors; and
- 4.3.2.3 which has been approved by the Commissioner as a public benefit organisation in terms of section 30 of the Income Tax Act.

5 COMPANY NOT TO HAVE MEMBERS

As contemplated in item 4(1) of Schedule 1 to the Act, the Company has no members.

6 LIMITATION OF LIABILITY

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

7 POWERS OF THE COMPANY

- 7.1 The Company has all of the legal powers and capacity of an individual for purposes of carrying out its object, except to the extent that a juristic person is incapable of exercising any such power or having any such capacity, and no provision contained in this Memorandum of Incorporation should be interpreted or construed as negating, limiting, or restricting those powers in any way whatsoever.
- 7.2 The legal powers and capacity of the Company are not subject to any restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii).

8 SPECIAL PROVISIONS RELATING TO TAX EXEMPTION

- 8.1 It is envisaged that the Company shall apply to the Commissioner for approval as a public benefit organisation as contemplated in section 30(3) of the Income Tax Act and that the receipts and accruals of the Company will be exempt from normal tax to the extent set out in section 10(1)(cN) of the Income Tax Act. In order to qualify for such tax exemption the Company shall at all times comply with the provisions of clauses 8.2 to 8.16.

- 8.2 As recorded in clauses 4.1 and 4.2 of this Memorandum of Incorporation, the income and property of the Company howsoever derived shall be applied solely towards the promotion of the Company's objects or be invested and no portion thereof shall be paid or transferred, directly or indirectly, to any person other than in the course of the promotion of the Company's objects; provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the Company in return for any services actually rendered to the Company.
- 8.3 The Company shall take reasonable steps to ensure that each activity carried on by the Company is for the benefit of, or is widely accessible to, the general public at large, including any sector thereof (other than small and exclusive groups).
- 8.4 The Company shall comply with such conditions, if any, as the Minister of Finance may prescribe by way of regulation to ensure that the activities and resources of the Company are directed in the furtherance of its objects.
- 8.5 As recorded in clause 4.3, upon its dissolution the assets of the Company remaining after the satisfaction of all its liabilities, shall be given or transferred to some other association or institution or associations or institutions having objects similar to the Company's objects, which has been approved by the Commissioner as a public benefit organisation in terms of section 30 of the Income Tax Act.
- 8.6 There shall at all times be a minimum of 3 (three) Directors who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Company and no single person shall directly or indirectly control the decision-making powers relating to the Company. For purposes of this Memorandum of Incorporation "connected person" has the meaning ascribed to that term in the Income Tax Act.
- 8.7 The Company is prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act: provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.
- 8.8 The Directors shall submit copies of any amendments to the Memorandum of Incorporation to the Commissioner and to the NPO Director.
- 8.9 The Company shall not knowingly be a party to or permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was 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 the Income Tax Act or any other Act administered by the Commissioner.

- 8.10 The Company will not pay any remuneration, as defined in the Fourth Schedule of the Income Tax Act, to any employee, office bearer, Director or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and will not economically benefit any person in a manner which is not consistent with the objects of the Company.
- 8.11 The Company shall submit the required income tax returns together with the relevant supporting documents to the South African Revenue Service annually and comply with all such other reporting requirements as may be determined by the Commissioner.
- 8.12 The Company shall register in terms of section 13(5) of the NPO Act and comply with any other requirements imposed in terms of that Act.
- 8.13 The Company will not use the Company's resources directly or indirectly to support, advance or oppose any political party.
- 8.14 All financial transactions of the Company shall be conducted by means of a banking account.
- 8.15 Any books of account, records or other documents relating to the Company must, regardless of whether such documents are kept in book form or not, be retained and carefully preserved by the Company for a period of not less than 4 (four) years after the date of the last entry in any book or document.
- 8.16 The Company shall be entitled but not obliged to procure that donations to the Company shall be allowed to be deducted from the taxable income of a taxpayer, as contemplated in section 18A of the Income Tax Act, and such other tax exemptions as are available in law, and/or as the Commissioner may allow. In that event the Company shall –
- 8.16.1 comply with any additional requirements imposed in terms of section 18A(1) of the Act that are prescribed for donations to be allowed as a deduction for the purposes of section 18A of the Act; and
- 8.16.2 ensure that an audit certificate is provided upon submission by the Company to the Commissioner of its annual return for each year of assessment, confirming that all donations received or accrued by the Company in that year, in respect of which section 18A receipts were issued by the Company, were utilised in the manner contemplated by that section.
- 8.17 Within 2 (two) calendar months after drawing up the Company's financial statements, the Company must arrange for a written report to be compiled by an Accounting Officer (which

may be the auditor of the Company) and submitted to the Company stating whether or not

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- 8.17.1 the financial statements of the Company are consistent with its accounting records;
 - 8.17.2 the accounting policies of the Company are appropriate and have been appropriately applied in the preparation of the financial statements; and
 - 8.17.3 the Company has complied with the provisions of the NPO Act and of this Memorandum of Incorporation which relate to financial matters.
- 8.18 The Company shall preserve each of the Company's books of account, supporting vouchers, income and expenditure statements, balance sheets and Accounting Officer's reports, in an original or reproduced form, for such period as may be prescribed from time to time in terms of the NPO Act, and in any event for a period not less than that referred to in clause 8.15.

9 RESTRICTIVE CONDITIONS

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

10 APPLICATION OF OPTIONAL PROVISIONS OF THE ACT

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.

11 COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS

- 11.1 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, and subject to clause 8.6, the Board must comprise at least 3 (three) Directors, and there is no restriction on the maximum number of Directors that may be appointed.
- 11.2 The incorporators of the Company shall be its first Directors, in terms of section item 3(b) of Schedule 1 to the Act.
- 11.3 The Board of Directors may appoint persons who possess the skills and qualifications beneficial to the board of directors for any purpose, general or specifically the following:
 - 11.3.1 Demonstrated financial acumen and business experience and leadership experience;
 - 11.3.2 An understanding of the South African education ecosystem;

- 11.3.3 A passion for the educational enrichment of the youth of South Africa; previous experience serving underprivileged communities; and
- 11.3.4 Ability to commit time to actively participate in board responsibilities
- 11.4 The Board shall have the power, by majority vote to –
 - 11.4.1 appoint such additional Director of Directors as the Board may consider appropriate; and/or
 - 11.4.2 appoint a successor or successors to assume office as Directors/s on the failure of any one or more of them; and/or
 - 11.4.3 remove any Director from office,as they may in their discretion deem fit, provided that they shall so exercise the powers hereby granted to them to ensure that the number of Directors shall not fall below [3 (three)].
- 11.5 In the event that the number of Directors should, for any reason, fall below [3 (three)], the remaining Directors/s –
 - 11.5.1 shall retain the power to act in terms of this clause to appoint a further Director to increase the Directors to the required number; and
 - 11.5.2 shall further, pending such appointment, have power to exercise all the functions and powers of the Directors under this Memorandum of Incorporation for a period not exceeding 2 (two) months.
- 11.6 The Company shall only have the Directors [contemplated in clause 11.1 and the further Directors] appointed by the Board and there shall be no Directors appointed by any other person or *ex officio* Directors as contemplated in section 66(4).
- 11.7 In addition to satisfying the qualification and eligibility requirements set out in section 69, a person need not satisfy any further eligibility requirements or qualifications to become or remain a Director or a prescribed officer of the Company.
- 11.8 Unless the terms upon which any Director is appointed provide otherwise, each Director of the Company shall serve for an indefinite term and a vacancy in the number of Directors shall only arise in the event of –
 - 11.8.1 any Director ceasing to hold office or become disqualified from holding office as such for any reason; and/or
 - 11.8.2 the Directors resolving to increase the number of Directors; and/or
 - 11.8.3 any of the other circumstances contemplated in section 70(1) arising.

- 11.9 The Board has the power to exercise all of the powers and perform any of the functions of the Company, as set out in section 66(1), and the powers of the Board in this regard are not limited or restricted by this Memorandum of Incorporation.
- 11.10 The Directors may at any time and from time to time by power of attorney appoint any person or persons to be the attorney or attorneys and agent(s) of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors in terms of this Memorandum of Incorporation) and for such period and subject to such conditions as the Directors may from time to time think fit. Any such appointment may, if the Directors think fit, be made in favour of any company, directors, nominees or managers of any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Directors. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys and agents as the Directors think fit. Any such attorneys or agents as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them.
- 11.11 Save as otherwise expressly provided herein, all cheques, promissory notes, bills of exchange and other negotiable or transferable instruments, and all documents to be executed by the Company, shall be signed, drawn, accepted, endorsed or executed, as the case may be, in such manner as the Directors shall from time to time determine.
- 11.12 All acts performed by the Directors or by a committee of Directors or by any person acting as a Director or a member of a committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the Directors or persons acting as aforesaid, or that any of them were disqualified from or had vacated office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director or member of such committee.
- 11.13 A Director may hold any other office or place of profit under the Company (except that of auditor) or any subsidiary of the Company in conjunction with the office of Director, for such period and on such terms as to remuneration (in addition to the remuneration to which he may be entitled as a Director) and otherwise as a disinterested quorum of the Directors may determine.
- 11.14 A Director of the Company may be or become a director or other officer of, or otherwise interested in, any company or other juristic person promoted by the Company or in which the Company may be interested as shareholder or otherwise and (except insofar as otherwise decided by the Directors) he shall not be accountable for any remuneration or other benefits received by him as a director or officer of or from his interest in such other company or juristic person.

12 ALTERNATE DIRECTORS ARE NOT REQUIRED

13 DIRECTORS' MEETINGS

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

13.2 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.

13.3 In addition to the provisions of section 73(1), any Director shall at any time be entitled to call a meeting of the Directors.

13.4 The Board has the power to –

13.4.1 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;

13.4.2 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;

13.4.3 determine the manner and form of providing notice of its meetings as set out in section 73(4); and

13.4.4 subject to clause 13.5.1, proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5),

and the powers of the Board in respect of the above matters are not limited or restricted by this Memorandum of Incorporation.

13.5 The quorum requirement for a Directors' meeting (including an adjourned meeting), the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting are as set out in section 73(5), subject only to clauses 13.5.1 and 13.5.5, and accordingly –

- 13.5.1 if the Company has failed to give the required notice for the convening of any meeting of the Board or there is any other defect in the giving of such notice the meeting may, subject to any quorum requirements, proceed provided that each Director (whether or not in attendance at the meeting) in writing acknowledges actual receipt of the notice and in writing waives any rights he or she might otherwise have enjoyed as a result of such short or defective notice;
- 13.5.2 a majority of the Directors must be present at a meeting before a vote may be called at any meeting of the Directors;
- 13.5.3 each Director has 1 (one) vote on a matter before the Board;
- 13.5.4 a majority of the votes cast on a resolution is sufficient to approve that resolution;
- 13.5.5 in the case of a tied vote –
 - 13.5.5.1 the chair may not cast a deciding vote in addition to any deliberative vote; and
 - 13.5.5.2 the matter being voted on fails.
- 13.6 Resolutions adopted by the Board –
 - 13.6.1 must be dated and sequentially numbered; and
 - 13.6.2 are effective as of the date of the resolution, unless any resolution states otherwise.
- 13.7 Any minutes of a meeting, or a resolution, signed by the chair of the meeting, or by the chair of the next meeting of the Board, is evidence of the proceedings of that meeting, or the adoption of that resolution, as the case may be.

14 DIRECTORS' COMPENSATION AND FINANCIAL ASSISTANCE

- 14.1 The Company may not pay remuneration to the Directors for their services as directors, unless otherwise agreed to by Special Resolution.
- 14.2 As contemplated in item 5(3) in Schedule 1 to the Act, the Company may not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to, a Director of the Company or of a related or inter-related company, or to a person related to any such Director.
- 14.3 Notwithstanding the provisions of clause 14.2, a transaction shall not be prohibited if it –
 - 14.3.1 is in the ordinary course of the Company's business and for fair value;
 - 14.3.2 constitutes an accountable advance to meet –
 - 14.3.2.1 legal expenses in relation to a matter concerning the Company; or

- 14.3.2.2 anticipated expenses to be incurred by the person on behalf of the Company; or
- 14.3.3 is to defray the person's expenses for removal at the Company's request; or
- 14.3.4 is in terms of an employee benefit scheme generally available to all employees or a specific class of employees.

15 **MANAGING DIRECTOR**

- 15.1 The Directors may from time to time appoint 1 (one) or more of their body to the office of managing Director for such term and at such remuneration as they may think fit, and may revoke such appointment subject to the terms of any agreement entered into in any particular case, provided that the period of office of a managing Director appointed in terms of an agreement shall be for a maximum period of 5 (five) years at any one time. The appointment of such a Director as managing Director shall terminate if he ceases for any reason to be a Director.
- 15.2 Subject to the provisions of any contract between himself and the Company, a managing Director shall be subject to the same provisions as to disqualification and removal as the other Directors of the Company.
- 15.3 The Directors may from time to time entrust to and confer upon a managing Director for the time being such of the powers exercisable in terms of this Memorandum of Incorporation by the Directors as they may think fit, and may confer such powers for such time and to be exercised for such objects and purposes, and upon such terms and conditions, and with such restrictions, as they think expedient; and they may confer such powers either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Directors in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

16 **INDEMNIFICATION OF DIRECTORS**

- 16.1 The Company may –
 - 16.1.1 advance expenses to a Director or directly or indirectly indemnify a Director in respect of the defence of legal proceedings, as set out in section 78(4);
 - 16.1.2 indemnify a Director in respect of liability as set out in section 78(5); and/or
 - 16.1.3 purchase insurance to protect the Company or a Director as set out in section 78(7),
- and the power of the Company in this regard is not limited, restricted or extended by this Memorandum of Incorporation.

- 16.2 The provisions of clause 16.1 shall apply *mutatis mutandis* in respect of any former Director, prescribed officer or member of any committee of the Board, including the audit committee, if any.

17 COMMITTEES OF THE BOARD

- 17.1 The Board may –

17.1.1 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

17.1.2 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 of Incorporation.

- 17.2 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 of Incorporation.

18 FUNDAMENTAL TRANSACTIONS

As contemplated in item 2(1) of Schedule 1 to the Act, the Company may not —

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

18.2 dispose of any part of its assets, undertaking or business to a profit company, other than for fair value, except to the extent that such a disposition of an asset occurs in the ordinary course of the activities of the Company.

19 ANNUAL FINANCIAL STATEMENTS

- 19.1 Notwithstanding the provisions of clause 10 –

19.1.1 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 –

19.1.1.1 the Act;

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

19.1.1.3 the Regulations; and

19.1.1.4 this Memorandum of Incorporation; and

19.1.2 the Company shall each year prepare annual financial statements within 6 (six) months after the end of its financial year, or such shorter period as may be appropriate.

- 19.2 The Company shall in particular, in order to satisfy its obligations in Regulation 25(4), maintain a register of revenue received from donations, grants or in terms of any other funding contracts or arrangements with any party, to the extent applicable.
- 19.3 In the event that the annual financial statements of the Company –
- 19.3.1 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 the Act, the annual financial statements shall be so audited in accordance with the relevant provisions of the Act; or
- 19.3.2 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
- 19.3.3 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.
- 19.4 In the event that the Company falls in the category of companies that may be exempted from having its annual financial statements independently reviewed, as contemplated in section 30(2)(b)(ii)(bb), or if the Company is otherwise exempted from having its annual financial statements either audited or independently reviewed, the Company shall concomitantly not be required to have its annual financial statements audited or independently reviewed.
- 19.5 Notwithstanding clauses 19.2 [and 19.4], the Board may, either in respect of a particular financial year of the Company or for any other fixed or indefinite period, resolve that the annual financial statements shall be audited or independently reviewed, as the case may be, in which event such audit or independent review shall be conducted in accordance with the requirements and parameters set out in the relevant resolution.

20 **AMENDMENT OF MEMORANDUM OF INCORPORATION**

- 20.1 This Memorandum of Incorporation may, subject to clauses 3.3 and 8.8, only be altered or amended in the manner set out in sections 16, 17 or 152(6)(b).
- 20.2 As contemplated in section 17, the Board, or any individual authorised by the Board, may alter this Memorandum of Incorporation in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document by –
- 20.2.1 publishing a notice of any alteration made by delivering a copy of such amendments to each Director by ordinary mail; and

20.2.2 filing a notice of the alteration.

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

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

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

21 **COMPANY RULES**

21.1 The Board is authorised to 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 or in this Memorandum of Incorporation by —

21.1.1 publishing a copy of any Rules or amendments to such Rules made in terms of section 15(3) to 15(5) by delivering a copy of such Rules or amendments to each Director by ordinary mail; and

21.1.2 filing a copy of those Rules.

21.2 Any Rules so made shall take effect and become binding in the manner contemplated in section 15(4).

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


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


21.3.2 filing a notice of the alteration.


ADOPTION

This Memorandum of Incorporation was adopted by the incorporators of the Company in accordance with section 13(1) as evidenced by the following signatures made by each of them or on their behalf –

Signature of Incorporator	
Name of Incorporator	Dane Harvey
Identity Number	8503165090080
Date	April 20th 2021

Signature of Incorporator	
Name of Incorporator	Fatima Harvey
Identity Number	546363467 (US Passport)
Date	April 20th 2021

Signature of Incorporator	
Name of Incorporator	Jonathan Cleary
Registration/Identity Number	8502155237081
Date	3rd May 2021

Signature of Incorporator	
Name of Incorporator	Helen Mtshali
Identity Number	8511260649080
Date	30th April 2021