

COMPANIES AND INTELLECTUAL PROPERTIES COMMISSION

REPUBLIC OF SOUTH AFRICA

In accordance with s 16(1)(c)

MEMORANDUM OF INCORPORATION

OF

IJ Hub NPC
2019/285016/08

('the Company')

The Company was established as a non-profit company, and with the following object:

To support investigative journalism in the SADC region in the service of a free, capable media and open, accountable democracy. This object shall be achieved by, *inter alia* –

- **Raising and de-risking philanthropic funding for investigative journalism in the SADC region;**
- **Supporting and building the capacity of organisations practising investigative journalism in the SADC region, at administrative and organisational levels; and**
- **Supporting and building the capacity of organisations and journalists practising investigative journalism in the SADC region, at an editorial level.**

Adoption of amended Memorandum of Incorporation

This Memorandum of Incorporation ("MOI") was adopted by the Company, in accordance with section 16(1)(c) of the Companies Act, 2008 ("the Act"), as evidenced by the special resolution to which this MOI is annexed.

In this MOI:

- A reference to a section by number except where the context indicates otherwise refers to the corresponding section of the Act;*
- A reference to a clause by number refers to the corresponding clause in this MOI;*
and
- Words that are defined in the Act bear the same meaning in this MOI as in the Act.*

1. INCORPORATION

- 1.1 The Company was incorporated as a non-profit company, as defined in the Act. The Company was incorporated under the name SCC FOR IJ NPC with no members, but has now changed its name to IJ HUB NPC, and will now have members.
- 1.2 The Company was incorporated in accordance with, and is governed by:
 - 1.2.1 the unalterable provisions of the Act that are applicable to non-profit companies;
 - 1.2.2 the alterable provisions of the Act that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in this MOI; and
 - 1.2.3 the provisions of this MOI.

2. OBJECTS AND POWERS OF THE COMPANY

- 2.1 The object of the Company is as set out on the first page of this MOI.
- 2.2 The Company shall have all the legal powers and capacity of an individual:
 - 2.2.1 except to the extent necessarily implied by its stated objects;
 - 2.2.2 except to the extent that a juristic person is incapable of exercising such a power or having such a capacity; and
 - 2.2.3 subject to such restrictive conditions, limitations or qualifications contained in this MOI.
- 2.3 The powers of the Company may only be executed in accordance with the main object of the Company.
- 2.4 The Company may not:
 - 2.4.1 amalgamate or merge with, or convert to, a profit company; or
 - 2.4.2 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 disposal of an asset occurs in the ordinary course of the activities of the Company; or
 - 2.4.3 knowingly become a party to or permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act 58 of 1962, as amended ("the Income Tax Act").
- 2.5 All of the activities of the Company shall be carried out in a non-profit manner and with an altruistic or philanthropic intent and no such activity shall be intended to directly or indirectly promote the economic self-interest of any director, officer or employee of the Company, other than by way of reasonable remuneration payable to that director, officer or employee.

3. MEMORANDUM OF INCORPORATION AND COMPANY RULES

- 3.1 This MOI of the Company may be altered or amended in the manner set out in section 16, 17 or 152(6)(b), provided that any amendment under section 16 shall require the following:
- 3.1.1 if the Company is exempted from payment of normal tax a copy of any such amendment shall be sent to the Commissioner for the South African Revenue Service or his/ her authorised representative;
- 3.1.2 if the Company is registered as a NonProfit Organisation then a copy of any amendments shall be sent to the Directorate of NonProfit Organisations.
- 3.2 The authority of the Company's Board of directors to make rules for the Company, is limited or restricted to the extent that the powers of the Company are limited by this MOI.
- 3.3 The Board shall publish any rules made by delivering a copy of those rules to each member by electronic communication.
- 3.4 The Company shall publish a notice of any alteration of the MOI or the rules made in terms of section 17(1) to correct a patent error in spelling, punctuation, reference, grammar or similar defect, by delivering a copy of these to each member by electronic mail.

4. OPTIONAL PROVISIONS OF THE ACT

- 4.1 The Company elects, in terms of section 34(2), to comply voluntarily with some of the provisions of Chapter 3 of the Act, in that the Company will appoint an auditor, in terms of sections 90 and 93.

5. COMPANY TO HAVE MEMBERS

- 5.1 The Company was founded with no members, as it was established in advance of final consultation with those who work in and have set up or are setting up regional investigative journalism centres. This amended MOI was adopted after the consultation, and provides for the Company to have members.
- 5.2 The members of the Company shall agree on, adopt and be bound by a Membership Code governing accession to membership, termination of membership and the conduct of members.
- 5.3 The members of the Company shall be the centres for investigative journalism in the region, which shall be voting members who meet the requirements for accession to membership as outlined in the Membership Code;
- 5.4 Members shall all be voting members.
- 5.5 Members may be admitted by the Company, provided that:

- 5.5.1 applicants meet the requirements for admission as outlined in the Company's Membership Code and the members take into account the factors set out in the Membership Code;
- 5.5.2 candidate members are supported by a special resolution of members; and
- 5.5.3 the Board shall be entitled to veto the admission of a member, on the grounds set out in the Membership Code, within two weeks of being informed by the members of the vote in favour of admission.

- 5.6 A member of the Company shall cease to be a member:
 - 5.6.1 if the member resigns in writing addressed to the Chairman of the Company or to its Secretary at its registered office;
 - 5.6.2 if the member is removed in terms of the process set out in the Membership Code; or
 - 5.6.3 if the member is a juristic person, and business rescue, insolvency, voluntary winding up or deregistration proceedings have begun in respect of that member.

- 5.7 If, at any time, the Company's Board of directors fails to determine a record date (being the date upon which it is determined which persons are recorded as members of the Company), as contemplated in section 59, the record date for the relevant matter is:
 - 5.7.1 in the case of a meeting, the latest date by which the Company is required to give members notice of that meeting; or
 - 5.7.2 the date of the action or event, in any other case.

6. RIGHTS OF MEMBERS

- 6.1 Each of the members shall appoint one representative to act on their behalf at meetings of the Company or in correspondence with and making decisions by the members and shall notify the Company management of the name and contact details of the representative and of any change in representative or contact details. Members may send other delegates to the meetings, or allow for other delegates to participate in discussion of matters, but only one representative of each members shall be entitled to exercise the vote of that member.

- 6.2 Members who are not able to send a representative to any meeting of members may appoint proxies to act on their behalf at meetings of the company provided that:
 - 6.2.1 Members may not appoint concurrent proxies;
 - 6.2.2 a member's proxy may not delegate the proxy's powers to another person;
 - 6.2.3 unless authorised by the Board in advance, no person may act as proxy for more than three members at any time;
 - 6.2.4 a member must deliver to the company a copy of the instrument appointing a proxy before that proxy may exercise the member's rights at a members meeting;

- 6.2.5 any member intending to vote by proxy shall have the right to terminate the proxy at any time prior to the commencement of the meeting by lodging with the company a written notice terminating the proxy and a proxy shall further be deemed to be *ipso facto* terminated in the event of the member who granted the proxy to be present at the meeting; and
- 6.2.6 a member's proxy may not decide without direction from the member whether to exercise or abstain from exercising any voting right of the member.

7. MEMBERS' MEETINGS - CONVENING

- 7.1 The Company shall convene an Annual General Meeting ("AGM") of its members once in every calendar year, but no more than 15 months after the date of the previous AGM, or within an extended time allowed by the members by unanimous vote.
- 7.2 Members' meetings shall also be called:
- 7.2.1 at any time that the board is required by the Act or this MOI to refer a matter to voting members for decision and the Board determines that it is not appropriate to hold the matter over till the following AGM; or
- 7.2.2 if the number of directors drops below the minimum required by this MOI, and the next AGM is more than 2 months from the date upon which the relevant director/s cease/s to act.
- 7.3 The right of members to call a meeting may be exercised by at least 25% of the voting members.
- 7.4 The Company's Board of directors may determine the location of any members' meeting, and may hold any meeting in any country in which a member is based.
- 7.5 The minimum number of days for the Company to deliver a notice of a members' meeting to the members, shall be 7 days before the meeting date, provided that members may, by unanimous agreement, waive the period of notice.
- 7.6 The Company's Board may also determine that a meeting should be held entirely by electronic communication, or provide for participation 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.

8. MEMBERS' MEETINGS - QUORUM AND VOTING

- 8.1 The quorum requirement for a members' meeting to begin, or for a matter to be considered, is 50% of member representatives being present.
- 8.2 If, within one hour after the appointed time for a meeting to begin, the quorum requirements:

- 8.2.1 for that meeting to begin have not been satisfied, the meeting shall be postponed without motion, vote or further notice for one week, subject to the proviso in 8.3.
- 8.2.2 for consideration of a particular matter to begin have not been satisfied -
- 8.2.2.1 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 motion or vote; or
- 8.2.2.2 if there is no other business on the agenda of the meeting, the meeting is adjourned for one week.
- 8.3 The rules in 8.2 shall be subject to the proviso that the person intended to preside at a meeting that cannot begin may extend the one-hour limit allowed for a reasonable period on the grounds that -
- 8.3.1 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
- 8.3.2 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 quorum requirements.
- 8.4 Once a quorum has been established for a meeting, or for a matter to be considered at a meeting, the meeting may not continue, and the matter may not be considered, unless that quorum is maintained.
- 8.5 The maximum period allowable for an adjournment of a members meeting is 60 days from the date of the adjourned meeting or part-meeting.
- 8.6 Meetings of members shall be chaired by the chairperson of the Board or, in his/her absence, by another Board member elected by the Board to chair that meeting provided that meetings of members which consider the conduct of members and/or possible termination of membership shall be chaired by a representative of a member, elected at the relevant meeting.
- 8.7 Each member shall have one vote on all matters to be decided by resolution, provided that a member shall only be entitled to exercise its vote if it is in good standing.
- 8.8 For a resolution to be adopted at a members' meeting, it must be supported by:
- 8.8.1 More than half of the voting rights exercised on the resolution, in the case of an ordinary resolution; or
- 8.8.2 at least two thirds of the voting rights of all members in good standing in the case of a special resolution.
- 8.9 For a resolution to be adopted by written vote of members:
- 8.9.1 it must be submitted for consideration to the members entitled to exercise voting rights in relation to the resolution, and supported by 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, which votes shall be those received within 20 days after the

- resolution's being submitted to them; and, if adopted, will have the same effect as if it had been approved by voting at a meeting;
- 8.9.2 An election of a director that could be conducted at a members' meeting may instead be conducted by written polling of all of the members entitled to exercise voting rights in relation to the election of that director; and
- 8.9.3 Within 10 business days after adopting a resolution, or conducting an election of directors in this manner, 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.
- 8.10 A special resolution is required for those matters set out in section 65(11), being the amending of the MOI, ratifying actions by the Company or directors in excess of their authority, approving an application to transfer the registration of the Company to a foreign jurisdiction, amalgamating or merging with another non-profit company, approving the voluntary winding up of the Company, or disposing of all or a greater part of the assets of the Company. It is also required to admit new members to the Company and to change the Company's Membership Code or Editorial Charter.

9. COMPOSITION OF THE BOARD OF DIRECTORS

- 9.1 The Board of directors shall be made up as follows:
- 9.1.1 a minimum of three and a maximum of five directors elected by the members;
- 9.1.2 a maximum of two *ex officio* directors appointed by the Board, who shall be non-voting directors;
- 9.1.3 at least three of the directors shall not be 'connected persons' [as defined in the Income Tax Act] in relation to one another; and
- 9.1.4 No single person shall, directly or indirectly, control the decision-making powers of the Company,
- provided that, until the first AGM of the Company, the Board shall be made up of three directors nominated by the amaBhungane Centre for Investigative Journalism NPC.
- 9.2 Elected directors shall be appointed by vote of the members at the Annual General Meeting.
- 9.3 The first directors shall serve an initial term which commences at incorporation of the Company and ends after the election of directors at the first AGM of the Company.
- 9.4 Subsequent elected directors (i.e. excepting *ex officio* directors) shall serve terms of two years each beginning from the date of their appointment, provided that the appointment and resignation of elected directors shall be staggered so that at least one third of the elected directors retires each year.
- 9.5 Directors retiring in terms of clause 9.3 shall be eligible for re-appointments for a maximum of two consecutive terms of office, but once this maximum is reached must then then take a sabbatical of at least one year before they may be re-appointed as directors.

- 9.6 At the meeting at or following which a member of the Board has vacated office because his/her term of office has expired, the members may fill the vacated office by electing an eligible person.
- 9.7 If the number of directors falls below the minimum required by clause 9.1 any time the remaining directors in office shall be empowered to continue to make decisions and govern the Company, while replacement directors are appointed to meet the requirements.
- 9.8 The directors shall have the power at any time to appoint any other person as a director, either to fill a vacancy or as an addition to the Board.
- 9.9 The office of a director shall *ipso facto* be vacated:
- 9.9.1 if the directors' term of office ends and he/she is not re-appointed to office;
 - 9.9.2 if the director's estate is provisionally sequestrated;
 - 9.9.3 if the director files a petition for the surrender of his/her estate as insolvent;
 - 9.9.4 if by one month's written notice to the Company, the director resigns from office;
 - 9.9.5 if the director ceases to be a director by virtue of the Act;
 - 9.9.6 if the director has a direct or indirect financial interest in any contract or proposed contract with the Company and fails to declare her/his interest and the nature thereof in the manner required by the Act;
 - 9.9.7 if the director dies;
 - 9.9.8 if the director becomes of unsound mind and/or is placed under curatorship by any court of competent jurisdiction;
 - 9.9.9 if the director is removed from office by resolution of the members; or
 - 9.9.10 if the director fails to attend three consecutive meetings of directors, without good cause and being excused therefrom by the remaining directors, and two thirds of the remaining directors resolve to exclude him/her from office.

10. AUTHORITY, VALUES AND DUTIES OF THE BOARD OF DIRECTORS

- 10.1 The authority of the Company's Board of directors to manage and direct the business and affairs of the Company, as set out in section 66(1) is limited or restricted to the extent that the powers of the Company are limited in this MOI.
- 10.2 In accordance with legal requirements, the directors shall exercise their powers and perform their functions:
- 10.2.1 in good faith and for a proper purpose;
 - 10.2.2 in the best interests of the Company; and
 - 10.2.3 with the degree of care, skill and diligence that may reasonably be expected of a person—
 - 10.2.3.1 carrying out the same functions in relation to the Company as those carried out by that director; and
 - 10.2.3.2 having the general knowledge, skill and experience of that director.

- 10.3 The directors shall exercise their powers in accordance with the following fundamental values:
- 10.3.1 **Conscience:** acting with intellectual honesty and independence of mind in the best interests of the Company and all its stakeholders, in accordance with the inclusive stakeholder approach to corporate governance;
- 10.3.2 **Competence:** having the knowledge and skills required for governing the Company effectively. This competence should be continually developed;
- 10.3.3 **Commitment:** diligence in performing duties and devoting sufficient time and energy to the affairs of the Company. Ensuring the Company's performance and compliance requires unwavering dedication and appropriate effort; and
- 10.3.4 **Courage:** taking the risks associated with directing and controlling a successful, sustainable non-profit company, as well as acting with integrity in all board decisions and activities.
- 10.4 The duties of the directors shall include (but not be limited to) the following key areas:
- 10.4.1 having a working understanding of the objects of the Company and being familiar with the fundamentals of the projects and programmes in which the Company is engaged;
- 10.4.2 keeping informed about the activities of the Company and monitoring the organisational affairs, policies and compliance environment of the Company;
- 10.4.3 contributing meaningfully and effectively to devising and implementing the medium and long-term strategy of the Company;
- 10.4.4 acting in a manner that demonstrates an understanding of the various assurance providers to the Company and the Boards' accountability to stakeholders;
- 10.4.5 interrogating the financial statements and determining the financial performance of the Company, including its solvency and liquidity;
- 10.4.6 overseeing the Company's risk management policy and the implementation and the ongoing monitoring of risk management;
- 10.4.7 overseeing stakeholder policy implementation and reporting to funders and other stakeholders;
- 10.4.8 responding to strategic challenges in a creative, proactive and constructive manner;
- 10.4.9 interacting with fellow board members and management in a manner that is beneficial to the work of the Company; and
- 10.4.10 performing any other duties and responsibilities that the Board may, from time to time, delegate.

11. BOARD OF DIRECTORS MEETINGS

- 11.1 No less than 25% of the directors (or at least two directors, whichever is greater) may requisition a meeting of the Board.
- 11.2 The minimum period of notice required to hold a board meeting is 7 days from the date on which the notice is issued. The notice must specify the date, time and place of the meeting and the general nature of the business to be discussed. The notice shall be in writing, by e-mail or post.

- 11.3 The Company's Board of directors may conduct a meeting entirely by electronic communication, or to provide for participation 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.
- 11.4 The Board of directors may proceed with a meeting despite a failure or defect in giving notice of the meeting, if all of the directors of the Company:
- 11.4.1 acknowledge actual receipt of the notice; or
 - 11.4.2 are present at a meeting; or
 - 11.4.3 waive notice of the meeting.
- 11.5 The directors shall appoint a chairperson, from their number, who shall preside over all meetings of the Board and perform the tasks set out in this MOI and all the other normal functions of a chairperson of the Company. If no chairperson is elected, or if the Chairperson is not present at a meeting within fifteen minutes after the time appointed for holding it, the directors present may choose one of their number to preside at that meeting.
- 11.6 The rules for directors' meetings are as follows:
- 11.6.1 The directors shall meet together not less often than twice per annum for the dispatch of business but shall otherwise regulate their meetings as they think fit.
 - 11.6.2 The quorum necessary for the transacting of business of the Board shall be half plus one directors when the number of directors exceeds three and, when the number does not exceed three, shall be two directors.
 - 11.6.3 Each director shall have one vote on a matter before the Board, except as provided in 11.8;
 - 11.6.4 except as otherwise provided in this document, a majority of the votes cast on a resolution will be sufficient to approve that resolution; and
 - 11.6.5 in the case of a tied vote, the Chairperson may cast a deciding vote, in addition to his/her deliberative vote.
- 11.7 The Company's Board of directors may consider a matter other than at a meeting, and the directors may, instead of voting to make a decision at a meeting, adopt a decision by written consent of the directors, given in person or by electronic communication, provided that each director has received notice of the matter to be decided upon. A decision so made shall have the same effect as if it had been approved at a meeting. Each decision so made shall be recorded in writing and record of resolutions of directors.
- 11.8 If a matter in which any director (or any person in relation to whom a director is a 'connected person' (as defined in the Income Tax Act)), has a personal financial interest is placed upon the agenda of a meeting or arises during the course of meetings or correspondence of directors, the relevant director shall:
- 11.8.1 immediately and in advance of the matter being dealt with, disclose the fact and nature of such personal financial interest;

- 11.8.2 inform the relevant meeting or electronic communication group or email mailing list of material information and answer questions concerning the personal financial interest;
 - 11.8.3 not take part in any consideration of any such matter, and leave the relevant meeting/electronic group/email list after disclosure concerning, the personal financial interest; and
 - 11.8.4 not be entitled to vote on or sign any document in relation to the matter in which the personal financial interest arises.
- 11.9 The Company shall keep minutes of the meetings of the Board, and any of its committees, and include in the minutes:
- 11.9.1 any declaration given by notice or made by a director as required by section 75 with reference to the personal financial interests of the director, whether it be an advance declaration of interests, or a specific declaration with reference to a specific matter; and
 - 11.9.2 every resolution adopted by the Board, which resolutions shall be dated, sequentially numbered, and will be effective from the date of the resolution, unless the resolution states otherwise.
- 11.10 Copies of the minutes of every meeting shall be dispatched by the person appointed by the Board from time to time, to all directors within 30 days of the holding of the meeting.

12. OFFICERS, COMMITTEES AND STAKEHOLDERS

- 12.1 The Board of directors may appoint any officers it considers necessary to better achieve the objects of the Company.
- 12.2 The Board of directors may appoint any executives and managers as required to manage the day to day affairs and business of the Company and these persons shall have delegated to them the powers needed in order to fulfil their duties subject to limits approved by the board from time to time.
- 12.3 The Board of directors may appoint committees of directors, and delegate to any such committee any of the authority of the Board, and/or include in any such committee persons who are not directors.
- 12.4 The authority of a committee appointed by the Company's Board, as set out in section 72(2)(b) and (c) is limited and restricted to the extent that the powers of the Company are limited by this MOI.
- 12.5 The Board of directors, may in its discretion, invite certain stakeholders, partners and interested parties as it sees fit, to form an advisory council of the Company. The Board may consult with the advisory council on matters of vision, policy and other matters which concern the stakeholders, partners and interested parties represented by the council from time to time.

13. ACCOUNTING RECORDS, BANKING AND RECEIPT OF DONATIONS

- 13.1 The directors shall cause such accounting records as are prescribed by section 28 to be kept.
- 13.2 The accounting records shall be kept in the registered office of the Company or at such other place or places as the directors think fit and shall always be open to inspection by the directors.
- 13.3 The financial transactions of the Company shall be administered via one or more bank accounts which shall be opened in the name of the Company.
- 13.4 The Company shall be entitled to accept revocable and conditional donations provided that:
- 13.4.1 the Company may only accept revocable donations where the reason for the revocation is:
- 13.4.1.1 a material failure to conform to the designated purposes and conditions of such donation; OR
- 13.4.1.2 any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act;
- 13.4.2 a donor (other than a donor which is an approved public benefit organisation or an institution 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.

14. EXPENDITURE AND USE OF RESOURCES

- 14.1 The income and property of the Company, however derived, shall be applied solely towards the promotion of its main object or invested and no funds will be distributed to any person other than in the course of undertaking any 'public benefit activity' (as defined in the Income Tax Act) and no portion of the income or assets of the Company may be paid or transferred, directly or indirectly, to the directors or persons appointing directors of the Company; provided that this shall not prevent:
- 14.1.1 the payment in good faith of reasonable remuneration to any officer or servant of the Company, for any services rendered to the Company;
- 14.1.2 payment of an amount due and payable by the Company in terms of a *bona fide* agreement between the Company and that person;
- 14.1.3 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
- 14.1.4 payment in respect of any legal obligation binding on the Company.

- 14.2 No remuneration (as defined in the Fourth Schedule to the Income Tax Act) shall be paid to any employee, office bearer, director or other person which is excessive, having regard to what is generally considered reasonable in the appropriate sector and in relation to the service rendered, and no person shall be economically benefitted in any way which is not consistent with the objects of the Company.
- 14.3 The Company shall not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to a director of the Company or of a related or inter-related company, or to a person related to any such director, unless 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;
 - 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.
- 14.4 The Company shall not use its resources directly or indirectly to support, advance or oppose any political party.
- 14.5 If the Company is approved under section 18A(1)(b) of the Income Tax Act, the directors shall be obliged to utilise at least such percentage as is required by the Income Tax Act at any time of the funds received by the Company which qualify for deductions under this section within a period of twelve months from the end of the financial year in which the funds are received, provided that this shall not apply if the Commissioner for the South African Revenue Services waives, defers or reduces the obligation to distribute in terms of the proviso to section 18A(1)(b)(ii).
- 14.6 No expenditure shall be incurred by or on behalf of the Company except on authority of the Board or of the person or persons to whom the Board has generally or specifically delegated the power to authorise expenditure. The Board shall establish and maintain a delegation framework which shall record such delegation of its powers.
- 14.7 All scholarships, bursaries or awards granted by the Company will be *bona fide* and be granted to an individual on grounds of objective merit or need.
- 14.8 No scholarship, bursary or award granted will be:
- 14.8.1 revocable, otherwise than for reasons of a material failure to conform to the designated purposes and conditions of the scholarship, bursary or award;
 - 14.8.2 subject to conditions which would enable the donor of the funds of the scholarship, bursary or award or any connected person in relation to the donor, to derive some direct benefit from the application of the scholarship, bursary or award; or
 - 14.8.3 granted to any person who is or will become an employee of the donor of the funds of the scholarship, bursary or award or the Company (or any associated institution in relation to the donor or Company) or any relative of the person,

unless circumstances indicate that the scholarship, bursary or award would have been granted to the person or his or her relative, even if that person had not been an employee of the donor, the Company or associated institution.

- 14.9 All decisions regarding the granting of scholarships, bursaries and awards will be made by a duly constituted committee of at least three persons, none of whom shall be persons who are connected persons in relation to the donors or the person to whom the scholarship, bursary or award is granted.
- 14.10 All scholarships, bursaries and awards granted to South Africans in respect of overseas study, research or teaching will be subject to an undertaking by the person to whom the scholarship, bursary or award is granted –
- 14.10.1 to apply the knowledge obtained from the study, research or teaching immediately after completion thereof, in South Africa for a period of at least the period that the study, research or training was funded by the organisation; or
- 14.10.2 to refund the full amount of the scholarship, bursary or award should he or she decide not to apply the knowledge as contemplated in 14.10.1

15. ANNUAL FINANCIAL STATEMENTS AND RETURNS

- 15.1 The directors shall, in accordance with sections 29 and 30, cause to be prepared and laid before the Board such annual financial statements as are referred to in those sections which annual financial statements shall:
- 15.1.1 be prepared within 6 months of the end of each financial year;
- 15.1.2 be audited voluntarily, as provided in this MOI;
- 15.1.3 include an auditor's report;
- 15.1.4 include a report by the directors as to the activities and financial state of the Company; and
- 15.1.5 be approved by the Board and signed by an authorised director.
- 15.2 A copy of the annual financial statements shall, at least 7 days prior to the relevant board meeting, be sent to every director of the Company provided that the directors may, by unanimous assent, waive this notice period.
- 15.3 The Company shall file annual returns:
- 15.3.1 with the Companies and Intellectual Property Commission within 30 business days of each anniversary of its date of incorporation; and
- 15.3.2 for income tax with the Commissioner for the South African Revenue Service, along with such payment, documents and information as may be required from time to time by those agencies.

16. REMUNERATION OF AND CONTRACTS WITH DIRECTORS

- 16.1 The directors shall not be remunerated for their services as such.

- 16.2 Executive Board directors will receive no additional fees by virtue of their membership of the Board, but will be paid as employees of the Company in accordance with their contracts of employment.
- 16.3 Directors may be paid such reasonable travelling, hotel and other expenses properly incurred by them in or about the performance of their duties as directors including those of attending and travelling to and from meetings of the directors or of any committee of the directors, as are expressly approved by the directors and recorded in the minutes.
- 16.4 The Company may pay any director who serves on any committee or who devotes special attention to the business of the Company, or otherwise performs services which in the opinion of the directors are outside the scope of the ordinary duties of a director, such extra remuneration as they may determine, subject to the provisions clause 14.2 and provided that such remuneration is expressly approved by the directors and recorded in the minutes.
- 16.5 Directors shall be entitled to contract with the Company and with any entity in which the Company may be interested provided that they may not vote on such contract or on any other matter in which they are interested, directly or indirectly.
- 16.6 Directors shall be entitled to act in their professional capacity on behalf of the Company and perform professional services for the Company and to charge a reasonable fee therefor.

17. INDEMNIFICATION OF DIRECTORS

- 17.1 If directors or officers of the Company, or members of any committee of the Company:
- 17.1.1 defend any legal proceedings, whether civil or criminal, for any liability or charge arising from their position in or authorised actions on behalf of the Company; and
- 17.1.2 judgment is given in their favour, or they are acquitted, or the proceedings are abandoned, or the proceedings are in connection with any application under section 77(9) of the Act and relief is granted to them by the Court,
- they shall be indemnified by the Company against costs arising from the defence of such proceedings and the company may advance to the director funds to cover the legal costs of defending these proceedings.
- 17.2 The Company will indemnify directors, officers or employees of the Company against personal liability for:
- 17.2.1 loss or expense incurred by the Company through the insufficiency or deficiency of any security in or upon which any of the funds of the Company are invested;
- 17.2.2 loss or damage arising from the bankruptcy, insolvency or delictual acts of any persons with whom monies, securities or effects are deposited; or
- 17.2.3 loss or damage occasioned by any error of judgment or oversight on his/her part; or

17.2.4 other loss, damage or misfortune whatever which happens in the execution of the duties of his/her office, or in relation thereto,

unless the loss, damage or expense:

- happened through his/her own gross negligence, gross default, gross breach of duty or wilful misconduct or wilful breach of trust; or
- is a fine arising from conviction for an offence (provided that the Company will indemnify against fines imposed in circumstances where there is no wrongful conduct by the director, officer or employee, but the fine is imposed by law purely because of the position held in the Company).

17.3 The Company's Board of directors may purchase insurance to protect the Company or director, officer or employee against any liability for which the Company provides an indemnity.

18. WINDING UP, DEREGISTRATION OR DISSOLUTION

18.1 Upon its winding up, deregistration or dissolution 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, but the assets of the Company remaining after the satisfaction of all its liabilities shall be given or transferred to some other organisation or organisations to be determined by the directors of the Company at or immediately before the time of its dissolution, or failing such determination, by the court, and which:

18.1.1 are non-profit;

18.1.2 have objects similar to the Company's main object; and

18.1.3 if the Company is exempt from income tax, donations tax and estate duty, under the relevant laws of the country are public benefit organisations which have been approved in terms of section 30 of the Income Tax Act and are required to use those assets solely for purposes of carrying on one or more public benefit activities.