MEMORANDUM OF INCORPORATION

of

IRIS HOUSE CHILDREN'S HOSPICE NPC (registration number 2011/004180/08)

being a nonprofit company which is registered as

a Public Benefit Organisation (PBO No. 93004306) in terms of the Income Tax Act No 58

of 1962 and as a Nonprofit Organisation (NPO 126-228) in terms of the Nonprofit

Organisations Act No 71 of 1997

("the Company")

The Company has adopted this unique form of Memorandum of Incorporation and, accordingly, the prescribed standard form of Memorandum of Incorporation for nonprofit companies which is contained in the Companies Regulations shall not apply to the Company.

This Memorandum of Incorporation replaces the Memorandum of Incorporation of the Company that was in existence at the time of adoption of this Memorandum of Incorporation.

This Memorandum of Incorporation has been signed in the spaces set out below in order to confirm the adoption of this Memorandum of Incorporation.

<table>
<thead>
<tr>
<th>Name</th>
<th>Identity number</th>
<th>Director</th>
<th>Signature</th>
<th>Date</th>
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<tbody>
<tr>
<td>Kathleen Gentz</td>
<td>490221 0054 089</td>
<td>Director</td>
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<td>7/7/16</td>
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<tr>
<td>Zaahir Abdurahman</td>
<td>860222 5189 088</td>
<td>Director</td>
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<td>10/7/16</td>
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<tr>
<td>Marilyn Roets</td>
<td>530126 0101 081</td>
<td>Director</td>
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<td>11/7/16</td>
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<tr>
<td>Carol Pietersen</td>
<td>720509 0231 083</td>
<td>Director</td>
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<td>7/4/2016</td>
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PART A – THE MOI AND RULES

1 INTERPRETATION

In this MOI, Article headings are used for convenience only and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention

1.1 an expression that denotes

1.1.1 any gender, includes the other genders;

1.1.2 a natural Person, includes an artificial or Juristic Person and vice versa;

1.1.3 the singular, includes the plural and vice versa;

1.2 the following expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings

1.2.1 "Act" the Companies Act 71 of 2008, as amended or substituted from time to time and including the Regulations;

1.2.2 "Board" the board of directors of the Company from time to time;

1.2.3 "Business Days" – any day other than a Saturday, Sunday or official public holiday in the Republic;
1.2.4 "Commissioner" - the Commissioner of the South African Revenue Service or his successor in title;

1.2.5 "Company" the company as defined on the front page of this MOI;

1.2.6 "Connected Person" - shall have the meaning ascribed thereto in the Income Tax Act and includes, in relation to any person, the spouse or child (including an adopted child) of such person or anybody related to him or his spouse within the third degree of consanguinity, or any spouse of anybody so related, and for the purpose of determining the relationship between any child and any other person, such child shall be deemed to be related to its adoptive parent within the first degree of consanguinity;

1.2.7 "Director" - a director of the Company from time to time;

1.2.8 "Income Tax Act" - Income Tax Act 58 of 1962, as amended or substituted from time to time;

1.2.9 "MOI" the memorandum of incorporation of the Company, being this document as amended or substituted from time to time;

1.2.10 "PBA" public benefit activity as defined in section 30(1) of the Income Tax Act;

1.2.11 "PBO" public benefit organisation as defined in section 30(1) of the Income Tax Act;

1.2.12 "Regulations" the Companies Regulations of 2011 and any other regulations made in terms of the Act, all as amended or substituted from time to time;

1.2.13 "Republic" the Republic of South Africa;

1.3 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Person, then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this MOI;
1.4 the use of the word "including", "includes" and "include", followed by a specific example/s, shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpretation of that general wording or those specific example/s;

1.5 where any term is defined within a particular Article other than this 1, that term shall bear the meaning ascribed to it in that Article wherever it is used in this MOI;

1.6 any capitalised word or expression that is not otherwise defined in this MOI shall be construed in accordance with the Act. For the avoidance of doubt, it is recorded that any reference to "Present at such Meeting" or "Present at the Meeting" shall be construed in accordance with the definition of "Present at a Meeting" in the Act;

1.7 a reference to a "section" refers to the corresponding section of the Act;

1.8 references in the lefthand margins to sections of the Act designated by the letter "S" and the numbers of the sections referred to are for information purposes only.

2 CONFLICTS WITH THE MOI

In accordance with the Act, in any instance where there is a conflict between a provision (be it express or tacit) of this MOI and

2.1 an alterable or elective provision of the Act, the provision of this MOI shall prevail to the extent of the conflict; provided that such alterable or elective provision of the Act expressly allows the Company to adopt the conflicting provision;

2.2 an unalterable or nonelective provision of the Act, the unalterable or nonelective provision of the Act shall prevail to the extent of the conflict; provided that if the provision of this MOI imposes a higher standard, greater restriction, longer period of time or any similarly more onerous requirement
than would otherwise apply to the Company in terms of such unalterable or nonelective provision, then the provision of this MOI shall prevail.

3  **AMENDMENT OF THE MOI AND RULES**

3.1 Every provision of this MOI is capable of amendment in accordance with sections 16, 17 and 152(6)(b) of the Act, and there is accordingly no provision of this MOI which may not be amended as contemplated in section 15(2)(c) of the Act.

3.2 The Board may, subject to section 15(4) of the Act, 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 this MOI, and the authority of the Board in this regard is not limited or restricted in any manner by this MOI.

3.3 The Company shall publish a copy of any Rules in terms of Article 5.2 and a notice of any alteration to such Rules in accordance with section 15(3) of the Act.

3.4 Notwithstanding the provisions of this Article 3, to the extent that the Company has made an application and has been approved as a PBO in accordance with the Income Tax Act, the Company must submit any amendments to the MOI to the Commissioner within thirty days after such amendments have been made (or such other period as may be prescribed by section 30B of the Income Tax Act).

**PART B – STATUS, POWERS, PBA’S AND OBJECTS OF THE COMPANY**

4  **STATUS AS NON-PROFIT COMPANY**

The Company –

4.1 shall exist in its own right, separately from its office-bearers and/or directors, and continue to exist notwithstanding changes in the composition of its office-bearers and/or directors;

4.2 shall be able to own property and other possessions;
S1(2) Schedule 1

4.3 shall carry on all of its activities in a non profit manner and with an altruistic or philanthropic intent;

S1(2) of Schedule 1

4.4 shall apply all of its assets and income, however derived, to advance its stated objects, as set out in this MOI;

4.5 shall not have members;

4.6 shall be able to receive and accept *bona fide* donations in cash or of property in kind –

4.6.1 subject to the Income Tax Act;

4.6.2 except to the extent that such donations are revocable at the instance of the donor, as contemplated by section 30(3)(b)(v) of the Income Tax Act; and

4.6.3 subject to approval of the Board;

5 INCORPORATION AND POWERS OF THE COMPANY

Schedule 1

5.1 The Company is incorporated as Iris House Children's Hospice, a Non Profit Company without Members and accordingly -

5.1.1 the Company shall have the public benefit and other objects (as required by Item 1(1) of Schedule 1 of the Act) set out in Article 6 and Article 7;

5.1.2 as contemplated by Item (2)(b) of Schedule 1 of the Act, the Company may –

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

5.1.2.2 directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to the objects set out in Article 7.
5.2 The Company is governed by

5.2.1 the Unalterable Provisions of the Act;

5.2.2 the Alterable Provisions of the Act, subject to the extensions, limitations, substitutions or variations set out in this MOI; and

5.2.3 the other provisions of this MOI.

5.3 The Company has, subject to section 19(1)(b)(i) of the Act, all of the legal powers and capacity of an individual and the legal powers and capacity of the Company are not subject to any restrictions, limitations or qualifications save as set out in Items 1(3) and 1(4) of Schedule 1 to the Act.

5.4 There is no provision of this MOI which constitutes a restrictive condition as contemplated in section 15(2)(b) of the Act.

6 PBA'S

As described in more detail in this MOI, the PBAs to be carried on by the Company in a non-profit manner and with an altruistic and/or philanthropic purpose, comprise of the following activities referred to in Part II of the Ninth Schedule to the Income Tax Act:

6.1 Welfare and humanitarian -

6.1.1 Paragraph 1(j) - The promotion or advocacy of human rights and democracy.

6.1.2 Paragraph 1(n) - The provision of facilities for the protection and care of children under school-going age of poor and needy parents.

6.1.3 Paragraph 1(p)(i)&(ii) - Community development for poor and needy persons and anti-poverty initiatives, including the promotion of community-based projects relating to self-help, empowerment, capacity building, skills development or anti-poverty; and the provision of training, support or assistance to such community-based projects;
6.2  Healthcare -

6.2.1  Paragraph 2(a) - The provision of health care services to poor and needy persons.

6.2.2  Paragraph 2(b) - The care or counseling of terminally ill persons or persons with a severe physical or mental disability, and the counseling of their families in this regard.

6.3  Education and Development -

6.3.1  Paragraph 3(f) - The training or education of persons caring for persons with a severe physical or mental disability.

6.3.2  Paragraph 3(h) - The provision of community and hospice based respite care for special needs children and adults.

7  OBJECTS OF THE COMPANY

7.1  The main objects of the Company are-

7.1.1  the training and deploying of a team of volunteers and staff to provide quality care in the community to special needs children;

7.1.2  to assist families of special needs children by providing respite care at their homes, allowing them to spend time with their partners and or other children;

7.1.3  to provide full time paid home care services to special needs families marketed as Care@Home;

7.1.4  to support the families of special needs children both emotionally and practically by means of food, electricity, equipment, clothing donations;

7.1.5  to provide quality day care, overnight care and short term respite care at the hospice building for special needs children;
7.1.6 to encourage every special needs child to be the best they can be with the best possible quality of life, promoting life skills, communication skills in line with the needs and capabilities of each child;

7.1.7 to raise awareness, educate the general public about special needs children and encourage acceptance into main stream school and activities;

7.1.8 to work with other associations and government to improve the current level of care and facilities available to special needs children and their families; and

7.1.9 to ensure that special needs children enjoy the same protection under the Bill of Rights as contained in the Constitution of the Republic of South Africa as "normal" children.

7.2 The activities listed in this Article 7 are for the benefit of and are widely accessible to the public at large.

8 DISTRIBUTION OF INCOME AND PROPERTY

8.1 The income and property of the Company, howsoever derived shall be applied solely towards the promotion of the Company's objects in Article 7, and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to the Directors of the Company, any Incorporator of the Company and/or any person appointing a Director except in accordance with the provisions of this MOI and Item 1(3) of Schedule 1 of the Act.

8.2 Specifically, the Company shall not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless 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 any person appointing a Director or any employee of the Company, except to the extent that any such payment and/or transfer relates to -
remuneration (as defined in the Fourth Schedule to the Income Tax Act), being any remuneration which is generally considered reasonable in the sector and in relation to the goods delivered or services rendered, for goods delivered or services rendered to, or at the direction of, the Company; or

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

8.2.3 a payment of an amount due and payable by the Company in terms of a bona fide agreement between the Company and that person or another;

8.2.4 a payment in respect of any rights of that person, to the extent that such rights are administered by the Company in order to advance a stated object of the Company; or

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

9 LIMITATION OF LIABILITY

Section 19(2) 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.

10 ELECTIONS IN RESPECT OF OPTIONAL PROVISIONS OF THE ACT

10.1 The Company does not elect, in terms of section 30(2)(b)(ii)(aa) of the Act, to voluntarily require an audit of its Annual Financial Statements.

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

11 MEMBERSHIP

The Company has no Members as contemplated in Item 4(1) of Schedule 1 of the Act.

PART C – DIRECTORS POWERS AND PROCEEDINGS
12 **AUTHORITY OF THE BOARD OF DIRECTORS**

The business and affairs of the Company shall be managed by or under the direction of the Board, which shall have the authority to exercise all of the powers and perform all of the functions of the Company, except to the extent that the Act and/or this MOI provides otherwise.

13 **COMPOSITION OF THE BOARD**

13.1 The number of Directors shall not, at any given time, be less than three. If the number of Directors is at any time less than three, the remaining Directors shall, immediately appoint additional Directors in terms of Article 13.3.1 and to ensure that the Company complies with its statutory, contractual and other legal obligations.

13.2 There shall be no qualification criteria for Directors to be appointed other than in terms of Article 13.6.

13.3 The existing Board shall be entitled by simple majority but subject to Article 13.6, to –

13.3.1 appoint any additional and/or future Directors to the Board; and

13.3.2 remove any Director from the Board.

13.4 There are no ex officio directors, as contemplated in section 66(4)(a)(i).

13.5 Subject to 13.4, a Director shall hold office of Director (unless he/she is removed in accordance with Article 13.3.2 or becomes ineligible or disqualified to hold the office of a Director in terms of Article 13.6) for a period of two years from the date of his/her appointment; provided that such Director shall be eligible to be re-appointed in accordance with this Article 13.

13.6 Notwithstanding anything to the contrary in this MOI, no Person shall be approved to serve as a Director if that person –

13.6.1 is ineligible or disqualified in terms of section 69 of the Act;
13.6.2 has been convicted in the Republic or elsewhere, and imprisoned without the option of a fine, or fined for any charge involving the abuse or deliberate neglect of a child; or

13.6.3 has not been involved or participated in any manner whatsoever in the activities and objectives of any other non profit company, charitable trust and/or voluntary association or otherwise been involved in a community based activity or project for a period one year prior to his appointment as Director of the Company.

13.7 In addition to the grounds of ineligibility and disqualification of Directors as set out in section 69 of the Act, a director shall cease to be eligible to continue as a Director if that person absents himself from all meetings of the Board and all events arranged by the Company occurring within a period of six consecutive months without the leave of the Board, and the Board resolves that his office shall be vacated.

13.8 Section 70 of the Act shall apply to any vacancy on the Board which may arise from time to time.

14 **ALTERNATE DIRECTORS**

14.1 Each Director may appoint an alternate director for himself/herself.

14.2 The appointment of an alternate director ends -

14.2.1 when his principal director ceases to be a Director; or

14.2.2 if he is removed as an alternate director by the Director who appointed him/her as an alternate director.

14.3 An alternate director, subject to this MOI -

14.3.1 acts as a director and generally exercises all the rights of his principal director, but only during the absence or incapacity of his principal director;
14.3.2 in all respects is subject to the terms and conditions relating to the appointment, rights and duties and the holding of office of his principal director; and

14.3.3 may receive reasonable compensation or remuneration from the Company only if and to the extent decided by the Board and subject always to 27 and the requirements of the Act.

15 BOARD COMMITTEES

15.1 The Board may

15.1.1 appoint any number of committees of Directors; and

15.1.2 delegate to any committee any of the authority of the Board (including the authority to subdelegate);

15.1.3 include any person who is not a Director of the Company in such committees provided that the chairperson of the Board shall be an \textit{ex officio} member of each committee,

and, the authority of the Board in this regard is not limited or restricted by this MOI.

15.2 The authority and power of any committee established by the Board, as contemplated in section 72(2) of the Act, is not limited or restricted by this MOI, but may be restricted by the Board when establishing such committee or by subsequent resolution.

16 CHAIRPERSON

16.1 The Board shall be entitled, from time to time, to appoint a Director to act as the chairperson of the Board and to remove that chairperson from his post, with or without nominating a replacement. The Board shall also be entitled, from to time, to appoint a vice chairperson of the Board (who shall perform the duties and obligations of chairperson in his absence) and to remove that vice chairperson from his post, with or without nominating a replacement
16.2 The chairperson of the Board shall preside as the chairperson of each meeting of the Board; provided that, if the chairperson is not present (or is present but not willing to act) at a meeting of the Board, then the vice chairperson shall preside as chairperson. If neither the chairperson nor the vice chairperson is present (or is present but not willing to act) at the meeting of the Board, the Directors present at that meeting may elect one of the Directors to be the chairperson of that meeting of the Board.

16.3 The chairperson shall, subject to the Act and this MOI and any decision of the Board, determine the procedure to be followed at all meetings of the Board.

16.4 In the case of an equality of votes, the chairperson of the Board shall have a second or casting vote in addition to his deliberative vote (if any).

17 OFFICE OF SECRETARY AND TREASURER

The Board shall be entitled, from time to time, but not obliged to appoint any Director to serve as the secretary or the treasurer of the Company and may remove such Director at any time from his post as the company secretary or the treasurer (as the case may be) with or without appointing a replacement.

18 DIRECTORS MEETINGS

18.1 The Board may meet, adjourn and otherwise regulate its meetings as it thinks fit; provided that –

18.1.1 in accordance with section 73(2) of the Act, any Director shall be entitled to convene or direct any person so authorised by the Board to convene a meeting of the Board;

18.1.2 at least fourteen days prior written notice of a Board meeting shall be given to all the Directors unless Article 18.2 applies or all the Directors agree in writing to a shorter period of notice;

18.1.3 the Directors shall meet at least twice in each calendar year;
S73(4)  18.1.2 determine the form of the notice that shall be given of its meetings and the means of giving that notice, as contemplated in section 73(4) of the Act; provided that

18.1.2.1 no meeting may be convened without notice to all of the Directors; and

18.1.2.2 any such prior determination may be varied, depending on the circumstances and reasons for the Board meeting in question,

and the authority of the Board in this regard is not limited or restricted by this MOI.

S73(5)(a)  18.2 If all of the Directors of the Company

18.2.1 acknowledge actual receipt of the notice and agree that the meeting should proceed;

18.2.2 are present at a meeting; or

18.2.3 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.

S73(3)  18.3 The Board

18.3.1 may provide for a meeting of the Board to be conducted in whole or in part by Electronic Communication; and

18.3.2 must always make provision for any Director to participate by Electronic Communication in every Board meeting that is held in person at any place other than the Registered Office of the Company,

and any Electronic Communication facility so employed must ordinarily enable all persons participating in that meeting to at least speak and hear each other at approximately the same time, and to participate reasonably effectively in
the meeting, with or without an intermediary. The authority of the Board in this regard is not limited or restricted by this MOI.

18.4 As set out in section 73(5)(b) of the Act, the quorum for meetings of the Board shall be a majority of Directors then in office; provided that unless the Board decides otherwise

18.4.1 if a quorum is not present within thirty minutes after the time appointed for the commencement of any meeting of the Board, that meeting shall automatically be postponed without motion or vote to the same day in the following week (or if that day is not a Business Day, the next Business Day), at the same time and place. The postponed meeting may only deal with the matters that were on the agenda of the meeting that was postponed;

18.4.2 if at any such postponed meeting a quorum is not present within thirty minutes after the time appointed for the commencement of that meeting, then, notwithstanding the provisions of section 73(5)(b) of the Act, the Directors present shall be deemed to constitute a quorum and shall be sufficient to vote on any resolution which is tabled at that meeting.

18.5 At any meeting of the Board

18.5.1 each Director shall have one vote on every matter to be decided by the Board; and

18.5.2 a resolution of the Board shall be passed by a majority of the votes cast in the manner set out in Article 18.5.1 at a quorate meeting of the Board. This Article 18.5.2 shall not detract from the Board's ability to adopt resolutions as set out in 19.

18.6 The Company shall keep minutes of the meetings of the Board, and any of its committees (if applicable), and include in those minutes

18.6.1 any declaration given by notice or made by a Director, as required by section 75 of the Act; and
18.6.2 every resolution adopted by the Board.

18.7 Resolutions adopted by the Board

18.7.1 must be dated and sequentially numbered; and

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

18.8 Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting or by the Directors present at such meeting, or by the chairperson of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

19 WRITTEN RESOLUTIONS BY DIRECTORS

A decision that could be voted on at a meeting of the Board may instead be adopted by a written resolution that has been submitted to all of the Directors and signed by at least that number of the Directors having a simple majority of the Voting Rights that could be exercised upon that resolution if it were considered by a meeting of the Board and -

19.1 any such resolution shall be as valid and effective as if it had been adopted by a duly convened and constituted meeting of the Board;

19.2 unless the contrary is stated in the resolution, any such resolution shall be deemed to have been passed on the date on which it was signed by the Director (or Alternate Director) who signed it last;

19.3 the resolution may consist of one or more counterpart documents, each signed by one or more Directors (or their Alternate Directors).

20 INDEMNIFICATION AND INSURANCE FOR DIRECTORS

20.1 For the purposes of this 20, a Director includes

20.1.1 a former Director;
20.1.2 a Prescribed Officer; and

20.1.3 a Person who is a member of a committee of the Board,

irrespective of whether or not the Person is also a member of the Board.

20.2 The Board may, on behalf of the Company, as contemplated in sections 78(4), 78(5) and 78(7) of the Act,

S78(4) S78(5) S78(7)

20.2.1 advance expenses to a Director to defend litigation in any proceedings arising out of the Director’s service to the Company; and

20.2.2 directly or indirectly indemnify a Director for expenses contemplated in 20.2.1, irrespective of whether or not it has advanced those expenses, if the proceedings

20.2.2.1 are abandoned or exculpate that Director; or

20.2.2.2 arise in respect of any liability for which the Company may indemnify the Director, in accordance with 20.2.3;

20.2.3 indemnify a Director against any liability arising from the conduct of that Director, other than a liability set out in section 78(6) of the Act;

20.2.4 purchase insurance to protect

20.2.4.1 a Director against any liability or expense for which the Company is permitted to indemnify the Director in accordance with 20.2.3;

20.2.4.2 the Company against any contingency, including

20.2.4.2.1 any expenses

20.2.4.2.1.1 that the Company is permitted to advance in accordance with 20.2.1; or
20.2.4.2.1.2 for which the Company is permitted to indemnify a Director in accordance with 20.2.2; or

20.2.4.2.2 any liability for which the Company is permitted to indemnify a Director in accordance with 20.2.3,

and the authority of the Board in this regard is not limited or restricted by this MOI.

20.3 The Company shall and is hereby obliged to indemnify each Director against (and pay to each Director, on demand by that Director, the amount of) any loss, liability, damage, cost (including all legal costs reasonably incurred by the Director in dealing with or defending any claim) or expense ("Loss") which that Director may suffer as a result of any act or omission of that Director in his capacity as a Director; provided that –

20.3.1 this indemnity shall not extend to any Loss –

20.3.1.1 against which the Company is not permitted to indemnify a Director by section 78(6) of the Act;

20.3.1.2 arising from any fraud, wilful misconduct, gross negligence or recklessness on the part of that Director,

20.3.1.3 relating to a Director's reputation or;

20.3.1.4 in the event and to the extent that the Director has recovered or is entitled and able to recover the amount of that Loss in terms of any insurance policy (whether taken out or paid for by the Company or otherwise);

and Directors shall not be entitled to recover the Losses referred to in this Article 20.3.1 from the Company. All losses other than those referred to in this 20.3.1 are referred to herein as "Indemnified Losses";

20.3.2 each Director's right to be indemnified by the Company in terms of this indemnity shall exist automatically upon his/her becoming a Director and
shall endure even after he/she ceases to be a Director until he/she can no longer suffer or incur any Indemnified Loss;

20.3.3 if any claim is made against a Director in respect of any Indemnified Loss, the Director shall not admit any liability in respect thereof and the Director shall notify the Company of any such claim within a reasonable time after the Director becomes aware of such claim, in order to enable the Company to contest such claim. Notwithstanding the foregoing provisions of this 20.3.1.3, the Company’s liability in terms of this indemnity shall not be affected by any failure of the Director to comply with this 20.3.1.3, save in the event and to the extent that the Company proves that such failure has resulted in the Indemnified Loss being greater than it would have been had the Director complied with this Article 20;

20.3.4 the Company shall, at its own expense and with the assistance of its own legal advisers, be entitled to contest any such claim in the name of the Director until finally determined by the highest court to which appeal may be made (or which may review any decision or judgment made or given in relation thereto) or to settle any such claim and shall be entitled to control the proceedings in regard thereto; provided that -

20.3.5 the Director shall (at the expense of the Company and, if the Director so requires, with the involvement of the Director's own legal advisers) render to the Company such assistance as the Company may reasonably require of the Director in order to contest such claim;

20.3.6 the Company shall regularly, and in any event on demand by the Director, inform the Director fully of the status of the contested claim and furnish the Director with all documents and information relating thereto which may reasonably be requested by the Director;

20.3.7 the Company shall consult with the Director prior to taking any major steps in relation to or settling such contested claim and, in particular, before making or agreeing to any announcement or other publicity in relation to such claim;
20.3.8 to the extent that any Loss consists of or arises from a claim or potential claim that the Company might otherwise have had against the Director, then the effect of this indemnity shall be to prevent the Company from making such claim against the Director, who shall be immune to such claim, and such claim shall therefore be deemed not to arise;

20.3.9 if this Article 20 is amended at any time, no such amendment shall detract from the rights of the Directors in terms of this Article in respect of any period prior to the date on which the resolution effecting such amendment is adopted;

20.3.10 all provisions of this Article 20.3 are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision of this Article 20.3 which is or becomes unenforceable, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, only to the extent that it is so unenforceable, be treated as pro non scripto and the remaining provisions of this Article 20.3 shall remain of full force and effect;

20.3.11 this indemnity shall not detract from any separate indemnity that the Company may sign in favour of the Director.

**PART D – GENERAL PROVISIONS**

21 **FINANCIAL STATEMENTS AND ACCESS TO COMPANY INFORMATION**

S29 21.1 The Company shall prepare annual Financial Statements in accordance with the Act and the Regulations and shall, only to the extent required by the Act or the Regulations, have those annual Financial Statements audited or reviewed.

S30 21.2 Except as set out in this Article 21, no information rights are established by this MOI in favour of any Person in addition to those rights created by section 26 of the Act.

22 **FINANCIAL ASSISTANCE TO DIRECTORS**
22.1 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 the transaction –

22.1.1 is in the ordinary course of the Company's activities in furtherance of the Objects and for fair value;

22.1.2 constitutes an accountable advance to meet (i) legal expenses in relation to a matter concerning the Company or (ii) anticipated expenses to be incurred by the Person on behalf of the Company;

22.1.3 is to defray the Person's expenses for removal at the Company's request; or

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

23 **FUNDAMENTAL TRANSACTIONS**

The Company shall not –

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

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

24 **FINANCIAL YEAR END**

The financial year end of the Company shall be the end of February of each calendar year.

25 **BANK ACCOUNT**

The Board shall be entitled to open and operate any banking account and to draw and issue cheques and to receive cheques, promissory notes and/or bills of exchange, and to endorse any of the same collection by the bank at which the said
account was opened, provided that at least two Directors shall be signatories to any drawings effected on the Company's bank accounts and to any endorsements of cheques, promissory notes and/or bill of exchange. The Company's financial transactions shall be conducted by means of such bank account.

26 NOTICES

26.1 Any notice that is required to be given to Directors may be given in any manner prescribed in the Table CR3 to the Regulations and that notice shall be deemed to have been delivered as provided for in the Regulations as a result of the relevant method of delivery.

26.2 Each Director shall

26.2.1 notify the Company in writing of a postal address, which address shall be his registered address for the purposes of receiving written notices from the Company by post and, if he has not named such an address, he shall be deemed to have waived his right to be so served with notices; and

26.2.2 unless otherwise agreed with the Company, notify in writing to the Company an email address and facsimile number, which address shall be his address for the purposes of receiving notices by way of email or facsimile, respectively.

27 COMPLIANCE PROVISIONS IN TERMS OF INCOME TAX ACT

27.1 The provisions of this MOI may be amended in accordance with the Companies Act, provided that such amendment shall not result in the Company losing the benefits of any rulings which may have been given in its favour by the Commissioner and the benefits of being a company contemplated in section 10(1)(d)(iv) of the Income Tax Act. Any amendments to this MOI shall be submitted to the Commissioner within thirty days after such amendments have been made (or such other period as may be prescribed by section 30B of the Income Tax Act).

27.2 The Company shall not knowingly be a party to and shall not knowingly permit itself to be used as part of an impermissible avoidance arrangement contemplated in Part IIA of Chapter III of the Income Tax Act, or a
transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act.

27.3 The Directors shall at all times ensure that the Company complies with the following provisions, namely -

27.3.1 The Company shall at all times have at least 3 (three) persons, who are not Connected Persons, to accept the fiduciary responsibility of the Company and no single person may directly or indirectly control the decision-making powers relating to the Company;

27.3.2 the Company is prohibited from directly or indirectly distributing any of its funds to any person otherwise than in furtherance of the object of the Company as set out in this MOI;

27.3.3 where any funds or assets are provided in the furtherance of the objects of the Company, reasonable steps will be taken to ensure that the funds are utilised for the purpose for which they have been provided;

27.3.4 where the Company has been approved in terms of section 18A(1)(b) of the Income Tax Act, the Company shall, where relevant, distribute 75% of all funds received by way of donation, in the manner and as contemplated in section 18A(2A)(b)(1) of the Income Tax Act;

27.3.5 save to the extent contemplated in section 30(3)(b)(v) of the Income Tax Act, the Company shall not accept any donation which is revocable at the instance of the donor;

27.3.6 the Company shall not pay any remuneration (as defined in the Fourth Schedule to the Income Tax Act) to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector in which the Company operates and in relation to the services rendered and the Company shall not economically benefit any person in a manner which is not consistent with its objects;
27.3.7 the Company shall comply with such reporting requirements as may be determined from time to time by the Commissioner;

27.3.8 the Company shall comply with such further conditions as may be prescribed from time to time in terms of section 30(3)(a) of the Income Tax Act; and

27.3.9 the Company shall not use its resources directly or indirectly to support, advance or oppose any political party.

27.4 To the extent that the provisions of any other Article in this Memorandum conflict with the provisions of this Article 27, the provisions of this Article 27 shall prevail over any such conflicting Article.

28 WINDING UP OR DISSOLUTION

28.1 The Company shall be wound up or dissolved as set out in the Act and the Income Tax Act.

28.2 Upon winding up or dissolution of the Company, no past Member, or past or present Director is entitled to any part of the net value of the Company after its obligations and liabilities have been satisfied.

28.3 The entire net value of the company will be distributed to one or more non-profit companies determined by the Board (and/or to external non-profit companies carrying on activities within the Republic and registered in terms of the Companies Act, voluntary associations or non-profit trusts determined by the Board) with similar main objects to those of the Company provided that they shall (as required by section 30B(2)(b)(x) of the Income Tax Act) be –

28.3.1 approved by the Commissioner in terms of section 30B(2)(b)(x) of the Income Tax Act;

28.3.2 a PBO approved in terms of section 30 of the Income Tax Act;

28.3.3 an institution, board or body which is exempt from tax under section 10(1)(cA)(i) of the Income Tax Act; or
28.3.4 the Government of the Republic, whether in the national, provincial or local sphere.