

REPUBLIC OF SOUTH AFRICA

COMPANIES ACT, 2008,

Registration No. of Company 2021/616521/08

MEMORANDUM OF INCORPORATION
OF
INDEPENDENT CANDIDATES ASSOCIATION SOUTH AFRICA NPC
being a non-profit company
("the Company")

The Company has adopted this new Memorandum of Incorporation.

This is the new Memorandum of Incorporation of the Company which has been adopted by the Board of Directors of the Company by resolution dated *[insert date]*

Director

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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 “**Act**” - 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;

1.1.2 “**Board**” - the board of Directors from time to time of the Company or if there is only one Director, then that Director;

1.1.3 “**Charter**” means the Charter which governs the Independent Candidates, the Organisational Affiliates and the Individual Affiliates, together with any amendments or addenda thereto;

1.1.4 “**Commission**” - the Companies and Intellectual Property Commission established by section 185;

1.1.5 “**Commissioner**” – the Commissioner for the South African Revenue Services;

1.1.6 “**Company**” - the company named on the first page of this document, duly incorporated under the registration number endorsed thereon;

1.1.7 “**Director**” - 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 “**Independent Candidate**” - any natural person who (i) has been included in a list of candidates submitted to the Independent Electoral Commission of South Africa ;

(ii) has been nominated for election; (iii) has accepted such nomination; (iv) has made him/self available for election or intends to stand for election or has already been appointed; and who has adhered to the Charter by way of signing a Deed of Affiliation (as defined in the Charter), which has been accepted by the Company;

1.1.10 “**Individual Affiliate**” – any natural person who is engaged in work to promote democracy in South Africa and who has adhered to the Charter by way of signing a Deed of Affiliation (as defined in the Charter), which has been accepted by the Company;

1.1.11 “**Regulations**” - the regulations published in terms of the Act from time to time;

1.1.12 “**related**” means the term defined as such in the Act;

1.1.13 “**Republic**” - the Republic of South Africa;

1.1.14 “**Rules**” - any rules made in respect of the Company from time to time as contemplated in section 15(3) to (5) and article 21 hereof;

1.1.15 “**Voting Individuals**” – Independent Candidates and Individual Affiliates.

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

1.2.1 Save as provided for in article **Error! Reference source not found.**, words and expressions defined in the Act and which are not defined herein shall have the meanings given to them in the Act;

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

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 a provision of any Rules, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict;
- 1.2.3.2 an alterable or elective provision of the Act, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict; and
- 1.2.3.3 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; provided that, should –
- 1.2.3.4 any provision of Rules merely supplement this Memorandum of Incorporation, but is not inconsistent therewith; or
- 1.2.3.5 the Act does not require the Memorandum of Incorporation to take precedence over that provision of the Rules, then that provision of the Rules shall be given effect to;
- 1.2.4 article 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 article shall, unless the application of any such word or expression is specifically limited to that article, bear the meaning

assigned to such word or expression throughout the whole of this Memorandum of Incorporation;

1.2.8 any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form such that the notice can conveniently be printed by the recipient within a reasonable time and at a reasonable cost.

1.3 Any reference in this Memorandum of Incorporation to –

1.3.1 “**days**” shall be construed as calendar days unless qualified by the word "business" or "working", in which instance a "business day" or "working 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**” shall mean 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 “**person**” means a natural or juristic person, unless the context expressly indicates to the contrary;

1.3.4 “**writing**” means legible writing and in English and includes handwriting, printing, typewriting, lithography or any other mechanical process, as well as any electronic communication in a manner and a form such that it can conveniently be printed by the recipient within a reasonable time and at a reasonable cost.

1.4 The words “**include**” and “**including**” – “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 such 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. This provision applies mutatis mutandis where a number of days are to be calculated.
- 1.7 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.8 Any reference herein to “**this Memorandum of Incorporation**” shall be construed as a reference to this Memorandum of Incorporation as amended from time to time.

2 JURISTIC PERSONALITY

- 2.1 The Company is incorporated as a non-profit company, as defined in section 10 and Schedule 1 of the Act, and has juristic personality from the date and time that the incorporation of the Company was 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; and
- 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 NON-PROFIT COMPANY PROVISIONS

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

3.1 The Company does not have any shareholders and it does not have any authorised or issued share capital.

3.2 The various sections of the Act listed in section 10(2) of the Act do not apply to the Company.

3.3 As required in terms of section 1 of Schedule 1 of the Act, the objects of the Company are set out in Schedule 1 to this Memorandum of Incorporation.

3.4 The Company must apply all of its assets and income, however derived, to advance its objects stated in Schedule 1.

3.5 Subject to article 3.4, the Company may:

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

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

3.6 The Company must 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 person appointing a Director, of the Company, except:

3.6.1 as reasonable -

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

- 3.6.1.2 payment of, or reimbursement for, expenses incurred to advance a stated object of the Company;
- 3.6.2 as 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;
- 3.6.3 as a payment in respect of any rights of that person, to the extent that such rights are administered by the Company in order to advance a stated object of the Company; or
- 3.6.4 in respect of any legal obligation binding on the Company.
- 3.7 The Company may not—
 - 3.7.1 amalgamate or merge with, or convert to, a profit company; or
 - 3.7.2 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.
- 3.8 The Company must 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.
- 3.9 Article 3.8 does not prohibit a transaction if it—
 - 3.9.1 is in the ordinary course of the Company's business and for fair value;
 - 3.9.2 constitutes an accountable advance to meet—
 - 3.9.2.1 legal expenses in relation to a matter concerning the Company; or
 - 3.9.2.2 anticipated expenses to be incurred by the person on behalf of the Company;

3.9.3 is to defray the person's expenses for removal at the Company's request; or

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

4 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.

5 POWERS OF THE COMPANY

5.1 Subject to the provisions of article 6, the Company has all of the legal powers and capacity contemplated in the Act, 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.

5.2 Except to the extent that article 6 provides otherwise, 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).

6 SPECIAL CONDITIONS

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

7 APPLICATION OF OPTIONAL PROVISIONS OF THE ACT

7.1 The Company does not elect, as contemplated in section 30(2)(b)(ii)(aa) of the Act, to voluntarily require an audit of its annual Financial Statements.

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

8 NO MEMBERS

As contemplated in item 4(1) of schedule 1 to the Companies Act, the Company has no Members.

9 COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS

9.1 The Board shall consist of not more than 8 (eight) Directors (which includes alternate directors), and shall comprise the following categories:

9.1.1 Independent Non-Executive Directors, of which there shall be a minimum of 4 (four).

9.1.2 Representative Non-Executive Directors, of which there shall be a minimum of 1 (one) and a maximum of 2 (two).

9.1.3 Executive Directors, of which there shall be a minimum of 1 (one) and a maximum of 2 (two).

9.2 Directors shall be elected in the manner provided below.

9.3 Independent Non-Executive Directors:

9.3.1 The initial Independent Non-Executive Directors as at the date on which this Memorandum of Incorporation is adopted are:

Michael Louis
Mudzuli Rakhivhane

(referred to as the “**Founding Non-Executive Directors**”).

9.3.2 The Founding Non-Executive Directors may invite a person who satisfies the requirements for election as a Director to be appointed as an Independent Non-Executive Director.

9.3.3 All Independent Non-Executive Directors shall be appointed by a majority vote of the Independent Non-Executive Directors in office at the time of such vote, at a meeting or by written resolution in accordance with section 60 of the Act.

9.3.4 Subject to article 9.3.5, an Independent Non-Executive Director may be removed by a simple majority of the Independent Non-Executive Directors at any time in the manner contemplated in section 71 of the Act.

9.3.5 Notwithstanding anything to the contrary in the Memorandum of Incorporation, no more than 1 (one) Independent Non-Executive Director may be removed and replaced in each financial year.

9.4 **Representative Non-Executive Directors:**

9.4.1 All Representative Non-Executive Directors shall be elected by a simple majority vote of Voting Individuals at a meeting of Voting Individuals convened in terms of the provisions of the Charter, or by written resolution, and may be removed in the manner provided for in the Charter.

9.4.2 A person may only serve as a Representative Non-Executive Director if that person is an Independent Candidate or an Individual Affiliate and, for the avoidance of doubt, is a natural person.

9.5 **Executive Directors:**

9.5.1 All Executive Directors shall be elected by a majority vote of Independent Non-Executive Directors in office at the time of such vote, at a meeting or by written resolution in accordance with section 60 of the Act.

- 9.5.2 An Executive Director may be removed by a simple majority of the Independent Non-Executive directors at any time in the manner contemplated in section 71 of the Act.
- 9.6 The Board may appoint a person who satisfies the requirements for election as a Director to fill any vacancy and serve as a Director of the Company on a temporary basis until the vacancy has been filled, and during that period any person so appointed has all of the powers, functions and duties, and is subject to all of the liabilities, of any other Director of the Company. The authority of the Board in this regard shall not be limited or restricted by this Memorandum of Incorporation.
- 9.7 Directors shall not be appointed for an indefinite period and they shall rotate in accordance with the following provisions (but subject to the provisions of article 9.3.5):
- 9.7.1 Each year one third of the Directors of each category as recorded in article 9.1 (or if their number is not a number divisible by three then the number closest to one third) shall retire from office.
- 9.7.2 The Director/s longest in office shall retire first or, if Directors were appointed at the same time, then the Directors shall either agree amongst themselves who shall retire or failing agreement the Independent Non-Executive Directors shall determine it by majority vote.
- 9.8 Notwithstanding anything else to the contrary herein contained, the Company may not permit a person to serve as Director if that person is ineligible or disqualified in terms of the Act.
- 9.9 In addition to the grounds of ineligibility and disqualification of Directors as contained in section 69 of the Act, a Director shall cease to be eligible to continue to act as a Director if he absents himself from all meetings of the Board occurring within a period of six consecutive months without the leave of the Board, and the Board resolves that his office shall be vacated; provided that this article 9.9 shall not apply to a Director who is represented by an Alternate Director who does not so absent himself.

9.10 This Memorandum of Incorporation does not impose any qualifications to be met by the Directors of the Company in addition to the ineligibility and disqualification provisions of the Act and article 9.9.

9.11 The Board has the power to:

9.11.1 fill any vacancy on the Board; and

9.11.2 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.

9.12 The Board 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 Board in terms of this Memorandum of Incorporation) and for such period and subject to such conditions as the Board may from time to time think fit. Any such appointment may, if the Board think fit, be made in favour of any company, the members, 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 Board. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys and agents as the Board think fit. Any such attorneys or agents as aforesaid may be authorised by the Board to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them.

9.13 Save as otherwise expressly provided herein, all 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 Board shall from time to time determine.

9.14 All acts performed by the Board 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.

9.15 The Directors in office may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the minimum number fixed in accordance with this Memorandum of Incorporation, they may act only for the purpose of filling vacancies in their body in terms of section 68(3), but not for any other purpose.

9.16 A Director may hold any other office or function 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 (including remuneration as an employee) and otherwise as a disinterested quorum of the Board may determine.

9.17 A Director of the Company may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise and (except insofar as otherwise decided by the Board) 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.

9.18 Each Director and each alternate Director, prescribed officer and member of any committee of the Board (whether or not such latter persons are also members of the Board) shall, subject to the exemptions contained in section 75(2) and the qualifications contained in section 75(3), comply with all of the provisions of section 75 in the event that they (or any person who is a related person to them) has a personal financial interest in any matter to be considered by the Board.

10 ALTERNATE DIRECTORS

10.1 Each Director may by notice to the Company:

10.1.1 nominate any 1 (one) or more than 1 (one) person in the alternative (including any of his co-Directors) to be his alternate, provided that if the alternate is not already

another Director the appointment shall be subject to the approval of the other Directors of that alternate, which approval shall not be unreasonably withheld or delayed; and further provided that:

10.1.1.1 in the case of an Independent Non-Executive Director and an Executive Director, the alternate must not be an Independent Candidate or an Individual Affiliate; and

10.1.1.2 in the case of a Representative Non-Executive Director, the alternate must be an Independent Candidate or an Individual Affiliate; and

10.1.2 at any time terminate any such appointment.

10.2 The appointment of an alternate Director shall terminate:

10.2.1 when the Director to whom he is an alternate Director:

10.2.1.1 ceases to be a Director;

10.2.1.2 terminates his appointment; or

10.2.2 if the Board reasonably withdraw their approval to his appointment.

10.3 An alternate Director shall:

10.3.1 only be entitled to attend or act or vote at any meeting of the Board if the Director to whom he is an alternate is not present, provided that –

10.3.1.1 he may attend a meeting of the Board at which the Director to whom he is an alternate is present if the other Directors agree thereto; and

10.3.1.2 any person attending any meeting of the Board as a Director in his own right and/or as an alternate for 1 (one) or more Directors shall have 1 (one) vote in

respect of each Director whom he represents, including himself if he is a Director;

10.3.2 only be entitled to sign a resolution passed otherwise than at a meeting of the Board in terms of this Memorandum of Incorporation if the Director to whom he is an alternate is then absent from the town in which the Office is situate, or is incapacitated;

10.3.3 subjects to the foregoing, generally exercise all the rights of the Director to whom he is an alternate in the absence or incapacity of that Director; and

10.3.4 in all respects be subject to the terms and conditions existing with reference to the appointment, rights and duties and the holding of office of the Director to whom he is an alternate, but shall not have any claim of any nature whatever against the Company for any remuneration of any nature whatever.

11 DIRECTORS' AUTHORITY TO ACT

If at any time the Company has two or less Directors then that/those Director/s may not exercise any power or perform any function of the Board until the number of Directors has been increased to three or more (except that they may appoint new Director/s to fill vacancies on the Board). The Director/s in question may however continue to act in terms of any resolution of the Board which was passed prior to the number of Directors dropping below three.

12 DIRECTORS' MEETINGS

12.1 Save as may be provided otherwise herein, the Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit provided that, in accordance with section 73(2) of the Act, any Director shall be entitled to convene, or direct the Person so authorised by the Board to convene, a meeting of the Board at any time by giving not less than seven days (or such lesser period as may be reasonable in the circumstances) written notice of such meeting to the other Directors and the Company.

12.2 The Board 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 the Board. If no chairperson or deputy chairperson is elected, or if at any meeting neither is present or willing to act as chairperson thereof within ten minutes of the time appointed for holding the meeting, the Directors present shall choose one of their number to be chairperson of such meeting.

12.3 The Board has the power to:

12.3.1 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 Board, given in person or by Electronic Communication, provided that each Director has received notice of the matter to be decided;

12.3.2 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;

12.3.3 determine the manner and form of providing notice of its meetings as set out in section 73(4), provided that:

12.3.3.1 the notice period for the convening of any meeting of the Board will be at least 7 (seven) days unless the decision of the Board is required on an urgent basis which justifies a shorter period of notice, in which event the meeting may be called on shorter notice. The decision of the chairperson of the Board, or failing the chairperson for any reason, the decision of any (two) Directors as to whether a matter should be decided on an urgent basis, and the period of notice to be given, shall be final and binding on the Board;

12.3.3.2 an agenda of the matters to be discussed at the meeting shall be given to each Director, together with the notice referred to in article 12.3.3.1 provided that any such agenda may be amended on reasonable notice to the Directors;

12.3.3.3 no meeting may be held if notice thereof and the agenda therefor are not given in accordance with articles 12.3.3.1 and 12.3.3.2; and

12.3.4 proceed with a meeting despite a failure or defect in giving notice of the meeting, as provided in section 73(5),

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

12.4 The quorum requirement for a Board meeting (excluding an adjourned meeting) to begin is a minimum of two Directors, subject to article 12.7 below.

12.5 If all of the Directors of the Company:

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

12.5.2 are present at a meeting; or

12.5.3 waive notice of a meeting,

the meeting may proceed even if the Company failed to give the required notice of that meeting or there was a defect in the giving of the notice;

12.5.4 each Director has 1 (one) vote on a matter before the Board;

12.5.5 resolutions of the Board shall be passed by a majority of the votes;

12.5.6 in the event that the required votes to pass a resolution has not been obtained:

12.5.6.1 the chairperson may not cast a deciding vote in addition to any deliberative vote; and

12.5.6.2 the matter being voted on fails.

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

12.7 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. 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 article 12.4, the Directors present will be deemed to constitute a quorum and will be sufficient to vote on any resolution which is tabled at that meeting.

12.8 Resolutions adopted by the Board:

12.8.1 must be dated and sequentially numbered; and

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

12.9 Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board, are evidence of the proceedings of that meeting, or the adoption of that resolution, as the case may be.

13 DIRECTORS' COMPENSATION AND FINANCIAL ASSISTANCE

13.1 Subject to article 3 above and schedule 1 of the Act, the Directors may be paid their travelling and other expenses necessarily incurred by them in connection with:

13.1.1 the business of the Company; and

13.1.2 attending meetings of the Board or of committees of the Board of the Company.

13.2 The Board may, as set out in and subject to the requirements of section 45, authorise the Company to provide financial assistance to a Director, prescribed officer or other person referred to in section 45(2), only to the extent that in doing so they do not contravene article 3 above and schedule 1 of the Act.

14 MANAGING DIRECTOR

14.1 The Board 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.

14.2 Subject to the provisions of any employment 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.

14.3 The Board 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 Board 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 Board in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

15 INDEMNIFICATION OF DIRECTORS

15.1 The Company may, only if in accordance with article 3, schedule 1 of the Act and the provisions of the ITA –

- 15.1.1 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);
 - 15.1.2 indemnify a Director in respect of liability as set out in section 78(5); and/or
 - 15.1.3 purchase insurance to protect the Company or a Director as set out in section 78(7).
- 15.2 The provisions of article 15.1 shall apply *mutatis mutandis* in respect of any former Director, prescribed officer or member of any committee of the Board, including the audit committee.

16 COMMITTEES OF THE BOARD

- 16.1 The Board may:
- 16.1.1 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
 - 16.1.2 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.
- 16.2 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.

17 FINANCIAL MANAGEMENT

17.1 Bank Account

The Board of Directors shall open a bank account in the name of the Company with a registered bank or building society. The Board of Directors shall ensure that all monies received by the Company are deposited in the abovementioned bank account as soon as possible after receipt.

17.2 **Signatures**

All promissory notes and other documents requiring signature on behalf of the Company shall be signed by two (2) Directors.

17.3 **Financial Year End**

The Company's financial year end shall be February.

17.4 **Financial Records**

The Board of Directors shall ensure that the Company keeps proper records and books of account which fairly reflect the affairs of the Company.

18 **ANNUAL FINANCIAL STATEMENTS**

18.1 Notwithstanding the provisions of article 7.1:

18.1.1 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:

18.1.1.1 the Act;

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

18.1.1.3 the Regulations; and

18.1.1.4 this Memorandum of Incorporation; and

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

19 DISSOLUTION OF COMPANY

19.1 The Company may be voluntarily wound-up as contemplated in section 80 of the Companies Act.

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

19.2.1 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

19.2.2 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 trust:

19.2.2.1 having objects similar to its main object; and as determined:

19.2.2.1.1 in terms of this Memorandum of Incorporation;

19.2.2.1.2 by its Directors at or immediately before the time of its dissolution; or

19.2.2.1.3 by the court, if the Memorandum of Incorporation, or the Directors fail to make such a determination.

20 AMENDMENT OF MEMORANDUM OF INCORPORATION

20.1 Save for the amendments contemplated in article 20.2, this Memorandum of Incorporation may only be altered or amended in the manner set out in sections 16, 17 or 152(6)(b).

20.2 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, or by email or by hand; 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 Commission accepts the filing of the notice of amendment contemplated in section 16(7); and
 - 20.3.2 the date, if any, set out in the said notice of amendment, save in the case of an amendment that changes the name of the Company, which will take effect from the date set out in the amended registration certificate issued by the Commission.

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 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, or email or by hand; and 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 or by email; and

21.3.2 filing a notice of the alteration.

SCHEDULE 1 – OBJECTS OF THE NON-PROFIT COMPANY

1. Organisation of independent electoral candidates

Building a transformed, national organisation of independent electoral candidates and affiliate organisations.

Advancing the cause of electoral reform, independent candidates, direct democracy and democracy in South Africa.

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