

REPUBLIC OF SOUTH AFRICA

COMPANIES ACT, 1973, AS AMENDED

**ARTICLES OF ASSOCIATION OF A COMPANY NOT HAVING A SHARE CAPITAL NOT ADOPTING
SCHEDULE 1 (Section 60(1), Regulation 18)**

The South African Medical Devices Company
Registration No. 2002/005232/08

Name of Company:

THE SOUTH AFRICAN MEDICAL DEVICES INDUSTRY ASSOCIATION
(Association incorporated under Section 21)

INDEX

Item Number		Page nr
1.	Interpretation	4
2.	Public Company	6
3.	Objectives	6
4.	Membership	7
5.	Termination of Membership	8
6.	Certificates	9
7.	Meeting of members	9
8.	Proceedings at meetings of member	10
9.	Votes of members	12
10.	Exercise of votes	13
11.	Directors	13
12.	Election of Board	14
13.	Remuneration of directors	15
14.	Borrowing powers of the Board	15
15.	General power and duties of the board	16
16.	Disqualification and privileges of directors	17
17.	Proceedings of directors	18
18.	Operation of subcommittees	20
19.	Duties of Officers	20
20.	Validity of Acts of Directors and Committees	21
21.	Financial matters	21
22.	Reserves	22
23.	Fees and Subscriptions	22
24.	Code of Business Practice	23
25.	Accounts	23
26.	Signature of documents	23
27.	Indemnity	24
28.	Prohibition on Distribution of Income & Property	25

INDEX CONTINUED

Item Number		Page Nr
29.	Notices	25
30.	Winding up	25
31.	Patrons	26
32.	Revocation of Constitution of the company	26

A

The Articles of Table A contained in Schedule 1 to the Companies Act of 1973, as amended, shall not apply to the company.

B

The Articles of the company are as follows –

1 **INTERPRETATION**

1.1 In the interpretation of these articles, unless the subject or context otherwise requires, the following words and expressions shall have the following meanings –

1.2 "**the Act**" – the Companies Act 61 of 1973, as amended or re-enacted and for the time being in force, including any regulations framed thereunder and for the time being in force;

1.2.1 "**articles**" – the articles of association for the time being of the company or as from time to time amended by special resolution;

1.2.2 "**associate member**" – an entity or individual not involved in the mainstream business of manufacturing, selling or distributing medical devices;

1.2.3 "**association member**" - a medical or health care association carrying on business in the Republic of South Africa;

1.2.4 "**auditors**" - such firm of chartered accountants as may from time to time hold office as auditors of the company;

1.2.5 "**board**" – the board of directors of the company as duly appointed in terms of these articles;

1.2.6 "**business day**" - any day other than a Saturday, Sunday or public holiday in terms of the laws of the Republic;

1.2.7 "**chairman**" - the chairman of the board elected in terms of these articles;

1.2.8 "the **company**" – the South African Medical Device Industry Association, an association incorporated under section 21 of the Act;

1.2.9 "**general meeting**" – an annual general meeting or a general meeting of the company;

1.2.10 "**honorary member**" – a natural person who, in the opinion of the board, has rendered exceptionally valuable or exemplary services to the company or the medical devices industry and has been granted honorary membership by the board;

- 1.2.11 "**medical device**" – shall bear the meaning accorded to it in terms of section 1 of the Medicines and Related Substances Act No. 101 of 1965, as amended;
- 1.2.12 "**member**" - a member of the company as defined in Article 4 and "membership" has a corresponding meaning; ;
- 1.2.13 "**ordinary member**" – a company or division of a company carrying on business in the Republic of South Africa and involved in the manufacture or distribution of medical devices;
- 1.2.14 "**person**" - a natural person, company, body corporate, statutory body, partnership or an association of persons;
- 1.2.15 "**profits**" – includes revenue and capital profits;
- 1.2.16 "**register**" – the register of members kept in terms of the Act;
- 1.2.17 "**registered office**" – the registered office of the company situated at 2nd Floor 72 Grayston Drive, Sandown 2196.
- 1.2.18 "**the Republic**" – the Republic of South Africa as it was constituted on 31 May 1961;
- 1.2.19 "**secretary**" - the secretary of the company appointed by the directors or a person authorised by the directors to carry out any of the duties of the secretary;
- 1.2.20 "**sign**" - the reproduction of a signature by lithography, printing or any kind of stamp or any other mechanical or electronic process (or by a combination of any two or more of the said processes), and "signature" has the corresponding meaning;
- 1.2.21 "**vice-chairman**" - the vice-chairman of the board elected in terms of these articles;
- 1.3 References to members represented by proxy shall include members represented by an agent appointed under a general or special power in the manner prescribed in the Act.
- 1.4 Any word or expression that is defined in the Act and which is not otherwise defined in these articles shall have the meaning assigned thereto in the Act as in force at the date of incorporation of the company.
- 1.5 Words importing any gender include the other genders, words importing the singular number include the plural and vice versa and an expression that denotes a natural person includes an artificial or juristic person and vice versa.
- 1.6 Where any number of days or business days is to be calculated after a particular day, such number of days or business days shall be calculated as excluding such particular day and commencing on the next day or business day (as the case may be).

- 1.7 Any provision requiring notice to be given or an act to be performed not less than a specified number of clear business days before an event shall be complied with only if the total number of business days elapsed between the day on which such notice is given or act is performed and the day of the event (excluding both such days) is at least the specified number.
- 1.8 Any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be.
- 1.9 If the provisions of these articles are in any way inconsistent with the provisions of the Act, the provisions of the Act shall prevail and these articles shall be read in all respects subject to the Act.
- 1.10 These articles shall be deemed to authorise the company to do anything which the Act empowers a company to do if so authorised by its articles, unless that authority is expressly excluded.

2 **PUBLIC COMPANY**

The company is regarded as a public company.

3 **OBJECTIVES**

The objectives of the company shall be to -

- 3.1 ensure that all activities of the company shall have the best interests of its members as the primary objective, provided that such shall not unreasonably diminish from the needs and rights of patients;
- 3.2 provide a forum for discussion on matters affecting the manufacturers and distributors of medical and surgical products in South Africa;
- 3.3 promote and encourage among its members ethical principles and practices, voluntarily agreed upon, and to this end, publish a Code of Business Practice which shall be binding on all members;
- 3.4 communicate and represent, through an elected committee of members, the industry's standpoint on relevant matters and offer advice or make recommendations when the need arises to any body or institution whose decisions and policies might affect the industry;
- 3.5 co-operate with governments and regulatory authorities, whether national or international, through its members, as appropriate;
- 3.6 work towards harmonization of standards and regulatory requirements within the area of medical devices manufacture and supply; and
- 3.7 promote a spirit of co-operation and shared responsibility among public and private health care professionals and providers, which shall include the State, as well as other relevant sectors, within the context of effective, efficient and transparent health care delivery.

4 **MEMBERSHIP**

4.1 The membership of the company shall consist of –

4.1.1 ordinary members;

4.1.2 associate members;

4.1.3 association members; and

4.1.4 honorary members.

4.2 The first members of the company (who are each ordinary members) shall be –

4.2.1 Safmed (Proprietary) Limited;

4.2.2 Smith & Nephew Limited;

4.2.3 Southern Implants (Proprietary) Limited;

4.2.4 Orthomedics (Proprietary) Limited;

4.2.5 Brittan Healthcare Group;

4.2.6 Browning Medical CC; and

4.2.7 Marcus Medical (Proprietary) Limited.

4.3 The board may, in its sole discretion, admit any person who supports the objects and objectives of the company as a member of the company on the terms and conditions contained herein and subject to such terms and conditions as may be prescribed by the board on the date of the admission of any member. The board shall determine and publish minimum criteria for membership, and shall be entitled to amend same from time to time. No person shall be admitted as a member unless it complies with such minimum criteria as amended from time to time.

4.4 Membership fees and annual subscriptions, if any, shall be determined by the board and shall be payable on an annual basis; provided that –

4.5 a member may be permitted to join during the course of any year, in which case the membership fee applicable shall be determined by the board;

4.6 honorary members shall be exempt from the payment of membership fees and annual subscriptions.

5 **TERMINATION OF MEMBERSHIP**

- 5.1 A member shall *ipso facto*, immediately and automatically (without the need for giving notice) cease to be a member of the company –
- 5.1.1 in the case of a natural person –
- 5.1.1.1 on such member's death;
- 5.1.1.2 if such member tenders written notice of his resignation as a member to the board;
- 5.1.1.3 if such member becomes mentally incapacitated or of unsound mind;
- 5.1.1.4 if such member's estate is surrendered or sequestered, whether voluntarily or compulsorily;
- 5.1.1.5 if such member commits any act of insolvency;
- 5.1.1.6 if such member is convicted of a criminal offence or commits a fraud;
- 5.1.1.7 if such member who is an employee of the company has his employment lawfully terminated by the company; or
- 5.1.2 in the case of a member which is not a natural person –
- 5.1.2.1 if such member tenders written notice of resignation as a member to the board;
- 5.1.2.2 if such member is liquidated, wound-up or placed under judicial management, whether provisionally or finally and whether compulsorily or voluntarily;
- 5.1.2.3 if such member commits any act of insolvency.
- 5.2 The board shall have the right to suspend or terminate the membership of any member which has -
- 5.2.1 not complied with the provisions of these articles; and/or
- 5.2.2 failed to pay its membership fees and/or any other amount due to the company within three months of the due date or within such further period as may be determined by the board in its discretion.
- 5.3 If any decision to suspend or terminate the membership of a member is made by the board, such member shall be entitled, within twenty business days of such decision -
- 5.3.1 to dispute the correctness of such decision; and

5.3.2 to refer such dispute for determination by a practising senior counsel agreed upon in writing by the member concerned and the board within seven business days of the member disputing such decision or, failing such agreement, appointed, at the instance of any member, by the President of the Johannesburg Bar Council (or his successor in title) which senior counsel shall act as an expert and not as an arbitrator and shall decide the matter in a summary manner, with a view to it being decided within fifteen business days after such dispute is referred to him or her in writing. Such senior counsel's decision (including his or her decision as to who is liable for the costs of such determination) shall be final and binding on all the parties.

5.4 The board shall report on any suspension or termination of membership at the following annual general meeting of the company.

6 **CERTIFICATES**

Subject to the provisions of the Act, certificates of membership may be issued under the authority of the board in such manner and form as the board may determine from time to time.

7 **MEETING OF MEMBERS**

7.1 General meetings of the members shall be held in accordance with the provisions of the Act.

7.2 The company shall, at such times as are in the Act prescribed, hold general meetings of members to be known and described in the notices calling such meetings as general meetings. General meetings of members shall ordinarily be held once per annum on a date to be fixed by the chairman.

7.3 The board, may (by a majority vote), at its election, convene a special general meeting by notice. A special general meeting shall also be convened on a requisition (addressed to the secretary) signed by members representing not less than one-third of the total voting rights of all the members of the company that have the right to vote at the date of lodgement of the requisition, or in default, may be convened by the requisitions as provided by and subject to the provisions of the Act.

7.4 The annual general meeting of the company shall be held not later than the last day of the month of May in each year.

7.5 If at any time there are not within the Republic sufficient directors capable of acting to form a quorum, any directors of any two members of the company may convene a general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors capable of acting to form a quorum.

- 7.6 Subject to the provisions of the Act relating to meetings of which special notice is required to be given, an annual general meeting and a meeting called for the passing of a special resolution shall be called by at least twenty-one (21) clear days' notice in writing. A meeting of the company, other than an annual general meeting or a meeting for the passing of a special resolution, shall be called by at least fourteen (14) clear days' notice in writing.
- 7.7 Special general meetings shall be called –
- 7.7.1 within one month from the date of the decision of the majority of the board or from the date of receipt of the requisition by the secretary; or
- 7.7.2 such shorter period, being not less than forty-eight (48) hours, as may be decided by the chairman.
- 7.8 Any notices of meetings of members shall specify the place, the day and the hour of meeting and, in the case of special business, the general nature of the business, and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the company at a meeting of members, to such persons as are under these articles entitled to receive such notices from the company: Provided that a meeting of the company shall be valid notwithstanding that it is called by shorter notice if a majority in numbers of the members having a right to attend and vote at the meeting who hold not less than ninety-five per cent (95%) of the total voting rights of all the members agree to the shorter notice period. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive a notice, shall not invalidate the proceedings of that meeting.
- 7.9 A member shall be entitled to appoint a proxy to attend, speak and vote (whether on a show of hands or on a poll) in its stead at any general meeting in accordance with the Act.

8 PROCEEDINGS AT MEETINGS OF MEMBERS

- 8.1 All business that is transacted at a general meeting, and all business that is transacted at the annual general meeting, with the exception of the consideration of the audited financial statements and the election of auditors, shall be deemed to be special business.
- 8.2 If the chairman so decides, all motions at the general meetings shall be reduced to writing and shall be delivered to the presiding officers to read to the meeting. No motion shall be considered unless seconded.
- 8.3 All matters forming the subject of motions shall, unless otherwise provided herein, be voted upon by show of hands and shall, unless otherwise provided herein, be decided by the votes of a majority of those present and entitled to vote except in the case of elections, when the candidates up to the required number receiving the highest number of votes, shall be declared elected.
- 8.4 All matters of procedure on which these articles are silent shall be decided on motion by a majority vote of members present at a general meeting and entitled to vote at such meeting.

- 8.5 Business may be transacted at any meeting of members only while a quorum is present.
- 8.6 Save as otherwise provided in these articles, the quorum at a meeting of members shall be twenty-five members entitled to vote, personally present or if a member is a juristic person, by authorised representative, or by proxy.
- 8.7 If within thirty (30) minutes from the time appointed for a general meeting or a special general meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any case it shall stand adjourned to the same day in the next week, at the same time and place, or, if that day be a public holiday, to the next succeeding business day other than a public holiday. If at such adjourned meeting a quorum is not present within thirty (30) minutes from the time appointed for such adjourned meeting then, subject to the Act, the members present shall be a quorum.
- 8.8 The chairman or, failing him or her, the vice-chairman, if any, of the board shall preside as chairman at every meeting of members of the company. If there is no such chairman, or if at any meeting neither the chairman nor the vice-chairman is present within fifteen (15) minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some director, or if no director be present, or if all the directors present decline to take the chair, they shall elect a member present to be chairman of the meeting.
- 8.9 The chairman may, with the consent of the members of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned as a result of a direction given in terms of any applicable provisions in the Act, notice of the adjourned meeting shall be given in the manner prescribed by such provision but, save as aforesaid, it shall not be necessary to give any notice of the business to be transacted at an adjourned meeting.
- 8.10 At any meeting of members a resolution put to the vote of the meeting shall be decided by majority of members entitled to vote on a show of hands unless a poll is demanded (on or before the declaration of the result of a show of hands) -
- 8.10.1 by the chairman of the meeting, or
- 8.10.2 by not less than one member having the right to vote at such a meeting.
- 8.11 On request of any member entitled to vote and present, a vote by secret ballot will be allowed without any discussion of the reasons for the request. A declaration by the chairman as to the result of the voting on any particular resolution and an entry to that effect in the minutes shall be conclusive proof of that result, without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 8.12 No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every

vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.

- 8.13 If a poll is demanded at a general meeting -
 - 8.13.1 on the election of a chairman or on an adjournment, the poll shall be taken immediately and in such manner as the general meeting determines, and a poll on any other question shall be taken at such time and in such manner as the chairman of the general meeting directs;
 - 8.13.2 the result of the poll shall be deemed to be the resolution of the general meeting at which the poll was demanded;
 - 8.13.3 the demand shall not preclude the general meeting from considering any question other than that on which the poll has been demanded unless the general meeting decides otherwise;
 - 8.13.4 the demand may be withdrawn at any time.

- 8.14 In the case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

- 8.15 The proceedings of annual general meetings or special general meetings shall not be invalidated by reason of the non-receipt by any member of the notice of the meeting.

- 8.16 At every annual general meeting the minutes of the preceding annual general meeting shall be circulated to all members by the secretary not later than with the notice of the particular annual general meeting, and shall be considered read by the members present at the meeting. After approval of the minutes by the members present, it shall be signed by the chairman of the annual general meeting.

- 8.17 Subject to the provision of the Act, a resolution in writing signed by a majority of the persons for the time being entitled to receive notice of and to attend and vote at meetings of members or by duly authorised representatives on their behalf shall be as valid and effectual as if it has been passed at a meeting of the company duly convened and held.

9 **VOTES OF MEMBERS**

- 9.1 Notwithstanding anything to the contrary in these articles -
 - 9.1.1 each ordinary member and each association member present in person or by proxy, if a member is a body corporate, duly represented at any meeting of the company, shall have one vote;
 - 9.1.2 no associate member or honorary member present in person or by proxy, duly represented at any meeting of the company, shall be entitled to a vote. Honorary members and associate members shall however have the right to –
 - 9.1.2.1 receive any information which may be competently provided by officers of the company;
 - 9.1.2.2 receive, at the discretion of the company, such assistance in any matter as may be rendered in terms of these provisions; and

- 9.1.2.3 take part in any discussion on any matter at any general or special meeting of the company.
- 9.2 The chairman shall have a casting vote.
- 9.3 Every member who is entitled to vote shall be entitled to appoint another person, who shall, subject to article 9.5, be a member of the company, as its proxy to attend, speak and vote in its stead at any general meeting of the company. Where any member also represents another member, he or she shall be entitled to exercise the votes of all members for whom he or she is present at the general meeting.
- 9.4 The form appointing a proxy shall be in writing under the hand of the appointee or his agent duly authorised in writing or, if the appointee is a corporate body, under the hand of an officer or agent authorised by that body.
- 9.5 The holder of a general or special power of attorney given by a member shall be entitled to vote, if duly entitled and authorised under the power to attend and take part in the meeting and proceedings of the company or companies generally, whether or not he be himself a member of the company.
- 9.6 The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power or authority shall be deposited at the registered office of the company not less than twenty-four (24) hours (or such lesser period as the directors may unanimously determine in relation to any particular meeting) before the time for holding the meeting (including an adjourned meeting) at which the person named in the form proposes to vote. No form appointing a proxy shall be valid after the expiration of six (6) months from the date when it was signed, except at an adjourned meeting unless otherwise specifically stated in the proxy itself.
- 9.7 Subject to the provision of the Act, a form appointing a proxy may be any usual or common form.
- 10 **EXERCISE OF VOTES**
- 10.1 Any person present and entitled to vote, on a show of hands, as a member or as a proxy at any meeting of the company shall on a show of hands have only one vote, irrespective of the number of total voting rights of the members of the company he holds or represents.
- 10.2 On a poll at any meeting of a company, any member or his proxy shall be entitled to exercise all his voting rights as determined in accordance with the provisions of the Act, but shall not be obliged to use all his votes or cast all the votes he uses in the same way.
- 11 **DIRECTORS**
- 11.1 Until otherwise determined by a meeting of members, the number of directors shall not be less than two and no more than fifteen member persons (including the chairman) who shall be elected by the members at the annual general meeting.

11.2 The company may from time to time at any meeting of members increase or reduce the number of directors, by a majority vote of members entitled to vote at such meeting.

11.3 The members, at a general meeting of members shall have power to, at any time, appoint any person as a director; provided that the total number of directors shall not at any time exceed the maximum number fixed by or in terms of these articles.

12 **ELECTION OF THE BOARD**

12.1 At the first annual general meeting of the company subsequent to the adoption of these articles (as amended), the number of directors elected to the board shall be increased from ten directors to twelve directors who shall be elected mutatis mutandis in accordance with the procedures set out in article 12.2. The board shall, at such meeting, identify six directors who shall resign immediately before the following annual general meeting.

12.2 Subsequent to the annual general meeting of the company after the adoption of these articles (as amended), directors shall be elected to the board in accordance with the following procedures –

12.2.1 at every annual general meeting, six directors shall be elected to the board by secret ballot for a period of two years. All directors of the board shall be eligible for re-election on termination of their period of office;

12.2.2 forms calling for the nomination of six (6) board members shall be circulated to members not less than 21 calendar days before each annual general meeting; provided that only those natural persons nominated as principal representatives and full time employees of a member shall be eligible for nomination to serve on the board;

12.2.3 completed nomination forms shall be lodged with the secretary not less than ten (10) clear calendar days before each annual general meeting;

12.2.4 no nominations for the board shall be made at any annual general meeting;

12.2.5 any person nominated to serve on the board shall in writing indicate and lodge with the secretary his/her willingness to accept such nomination not less than five (5) clear days before each annual general meeting. Any failure by any nominee to lodge such acceptance within the stipulated time period shall automatically invalidate the nomination of such nominee and the name of such nominee shall not appear on the ballot form in respect of such election;

12.2.6 each member eligible to vote shall have a total of six (6) votes and only one vote per nominated candidate shall be allowed;

12.2.7 the election of the board shall be on the basis of the six (6) nominees receiving the highest number of votes;

12.2.8 subject to being elected to the board, each nominee shall sign a confidentiality agreement between the company and such nominee; provided that if such nominee has previously signed such a confidentiality agreement with the company such nominee shall not be required to sign a new agreement.

- 12.3 The elected directors of the board shall, at the meeting of the board immediately following every second annual general meeting, elect a chairman and vice-chairman from amongst themselves. Such chairman and vice-chairman shall serve for a term of two years; provided that no person shall be elected chairman or vice chairman, respectively, for more than two terms.
- 12.4 The Chief Operating Officer of the company shall automatically be a member of the board and shall be entitled to vote. For the avoidance of doubt, the Chief Operating Officer shall be appointed as a director of the company in addition to the twelve directors elected and appointed in terms of article 12.1;
- 12.5 Association members shall automatically be entitled to appoint two directors ("**association directors**") to the board subject to compliance by the association directors with article 12.2.2. Notwithstanding anything to the contrary in these articles but subject to article 16, mutatis mutandis, the association directors shall be elected and/or removed by majority vote of the association members only, from time to time. For the avoidance of doubt, the association directors shall be appointed as directors of the company in addition to the twelve directors elected and appointed in terms of article 12.1 and each association director shall be entitled to vote on the board;
- 12.6 Casual vacancies occurring on the board shall be filled by the board at the first ensuing meeting of the board on nomination duly seconded and by a majority of votes. Where a casual vacancy occurs subsequent to the date on which the notice of that meeting was issued, it shall be filled at the next ensuing board meeting.
- 12.7 Nominations for the vacancy shall be submitted to the secretary in writing at any time before the meeting.
- 12.8 A member appointed to fill a vacancy shall only hold office for the unexpired portion of the period of office of his or her predecessor.
- 12.9 The board may, in its discretion, invite associate members to appoint a representative to the board.

13 **REMUNERATION OF DIRECTORS**

- 13.1 No director shall be paid any remuneration for his or her services as such.
- 13.2 The directors shall not be reimbursed by the company for any travelling, subsistence and other costs and/or expenses incurred by them in the execution of their duties in or about the business of the company.

14 **BORROWING POWERS OF THE BOARD**

- 14.1 The board may in its discretion, from time to time, raise or borrow from the members or other persons any sums of money for the purposes of conducting the business of the company without limitation.

14.2 The directors may secure the payment or repayment of any sums of money borrowed or raised in terms of article 14.1 or the payment of any debt, liability or obligation whatsoever of the company or of a third party, in such manner and upon such terms and conditions in all respects as they deem fit.

15 **GENERAL POWER AND DUTIES OF THE BOARD**

15.1 The business of the company shall be managed by the board who may exercise all such powers of the company as are by the Act or by these articles required to be exercised by the company at any meeting of members.

15.2 The board shall be responsible for:

15.2.1 managing the affairs of the company between annual general meetings;

15.2.2 making a final decision on any dispute concerning the interpretation of these articles (including, any dispute concerning the number of member companies or divisions permitted from a single corporate body);

15.2.3 the raising of funds by way of membership fees and/or levies;

15.2.4 meeting the objectives of the company;

15.2.5 delegating responsibilities for any activities it may choose, to subcommittee(s) which it will elect in terms of article 18.1; and

15.2.6 communicating resolutions of, or opinions of, the company to all outside bodies.

15.3 The board may from time to time entrust to and confer upon a Chief Operating Officer ("**COO**") for the time being such of the powers vested in it as it may think fit, and may confer such power for such time and to be exercised for such objects and upon such terms and with such restrictions as it may think expedient, and it may confer such powers either collateral or to the exclusion of, and in substitution for, all or any of the powers of the directors, and may from time to time revoke or vary any of such powers. A COO appointed pursuant to the provisions hereof shall not be regarded as an agent or delegate of the directors and after powers have been conferred upon him or her by the directors in terms hereof he or she shall be deemed to derive such powers directly from this article.

15.4 The directors of the board shall have the power from time to time to delegate, or to allocate, to any one of their members or to any other person, whether in the Republic or not, such of the powers as are vested in the director pursuant to the Act or under these articles, as they may deem fit.

15.5 The board may delegate, or allocate any of its powers to committees consisting of such member or members of its body as it thinks fit. Any committee so formed shall, in the exercise of the powers so delegated, conform to any resolutions that may be imposed on it by the board. Save as aforesaid, the meetings and proceedings of a committee consisting of more than one member shall be governed by the provisions of these articles regulating the meetings and proceedings of the board.

16 **DISQUALIFICATION AND PRIVILEGES OF DIRECTORS**

- 16.1 A director shall cease to hold office as such if –
- 16.1.1 he or she is prohibited from being or is removed as or is disqualified from acting as a director of a company in terms of the Act;
- 16.1.2 his or her estate is sequestrated or he or she files an application for the surrender of his or her estate or an application for an administration order, or if he or she commits an act of insolvency, or if he or she makes any arrangement or composition with his or her creditors generally;
- 16.1.3 he or she abandons or discontinues the business or interests which entitled him or her to a directorship;
- 16.1.4 the member which he or she represents withdraws from or is removed as a member of the company;
- 16.1.5 the annual subscription or any other sum due by the member which he or she represents, to the company is 6 months in arrears;
- 16.1.6 in the sole discretion of the board, he or she is found guilty of conduct adverse and prejudicial to the interests, objectives or objects of the company;
- 16.1.7 at the sole discretion of the board, it is adverse or prejudicial to the interests of the company that he or she should continue as a director of the company;
- 16.1.8 at the sole discretion of the board, such a director has contravened any Ethical Code of Practice published by the Ethics Committee of the company, and fails to remedy such contravention despite having been requested in writing to remedy such contravention;
- 16.1.9 he or she is found to be mentally incapacitated or becomes of unsound mind;
- 16.1.10 he or she is removed by a resolution of the company as provided in the Act;
- 16.1.11 he or she resigns from his or her office by giving one month's written notice to the secretary ;
- 16.1.12 a notice removing him or her from his or her office is given to him or her by members having a right to attend and vote at a meeting of members who hold not less than seventy five per cent (75%) of the total voting rights of all the members who are at that time entitled so to attend and vote;
- 16.1.13 he or she –
- 16.1.13.1 absents him or herself from three consecutive board meetings without tendering an apology for his or her absence; and/or

16.1.13.2 fails to attend at least 50% of the board meetings in any financial year for the company, and the board resolves that his or her office shall be vacated; and

16.1.14 he or she is otherwise removed in accordance with any provisions of these articles.

16.2 The board shall furnish its reasons for terminating a director's membership to the board in terms of above to that director in writing and that director shall have the right, exercisable by notice in writing to the chairman of the company within 7 days of receipt of those reasons, to be heard by the board within a period of 28 days of receipt by the chairman of the company of such notice. Within 7 days of hearing the board may, upon such terms if any, as it may deem appropriate and without any obligation to give reasons, rescind or confirm the suspension or expulsion, or amend it, and until such rescission or confirmation or amendment is made, no public announcement within or outside the company of such suspension or expulsion, shall be made.

16.3 A director, whose membership of the board has been terminated, shall immediately return to the company any certificate of membership or plaque, and shall cease to incorporate in its commercial documentation, advertising material, letterheads and any other documentation or communications media to which members of the public may have access, any reference to his or her directorship of the company, and shall remain liable for all sums that may at the date of termination of his or her directorship be due monies already paid nor under any circumstances have any claim on the company or its officers, its property or its funds.

16.4 A member whose membership is terminated by the board in accordance with these provisions shall nevertheless remain liable in terms of its guarantee for the liabilities of the company, as well as any amount owing to the company at the time of such termination.

17 **PROCEEDINGS OF DIRECTORS**

17.1 The board shall ordinarily meet at least once every two months on a date to be fixed by the chairman.

17.2 Special meetings of the board shall be called by the chairman whenever he or she deems it advisable or upon a requisition signed by not less than one-third of the directors of the board, in which event the meetings shall be called within fourteen (14) days of receipt of the requisition by the secretary.

17.3 A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

17.4 Directors of the board shall be notified in writing of the time and place of meetings of the board by the secretary at least fourteen (14) days before the dates of such meetings; provided that such shorter notice being not less than twenty-four (24) hours, as may be decided by the chairman, may be given in respect of special meetings. An agenda shall be attached to every notice of a meeting.

17.5 Subject to the provisions of the Act relating to meetings of which special notice is required to be given, a meeting called for the passing of a special resolution shall be called by at least twenty-one (21) clear days' notice in writing.

- 17.6 The directors may determine what period of notice shall be given of meetings of directors and may determine the means of giving such notice, which may include telephone, telegrams, telex, telefax or e-mail. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from the Republic.
- 17.7 All matters where agreement is not reached by the board shall be decided on a majority by a motion duly seconded and voted upon by show of hands.
- 17.8 Each director entitled to vote shall have one vote. The chairman shall have a second or casting vote.
- 17.9 The quorum necessary for the transaction of business at a meeting of the board shall be half of the total number of directors plus one director.
- 17.10 If within fifteen (15) minutes of the fixed time for any board meeting a quorum is not present, the meeting shall stand adjourned to such date and place as the chairman of the meeting shall decide and written notice of the adjourned meeting shall not be required to be given to directors. At such an adjourned meeting of the board the directors present shall be deemed to be a quorum.
- 17.11 At every board meeting the minutes of the preceding board meeting shall be circulated to the directors not later than 14 days before the meeting and shall be considered as read and shall be signed by the chairman after approval by the directors present.
- 17.12 The proceedings of a board meeting shall not be invalidated by reason of non-receipt by any director of the notice of the meeting.
- 17.13 Subject to the Act –
- 17.13.1 a resolution in writing signed by the sole director or by all the directors for the time being present in the Republic and being not less than are sufficient to form a quorum, shall be as valid and effectual as if it was passed at a board meeting duly called and constituted. The resolution may consist of several documents, each signed by one or more directors in terms of these articles;
- 17.13.2 in the case of matters requiring urgent resolution or, if for any reason it is impracticable to meet or pass a resolution, the meeting may be conducted and a resolution may be passed utilising conference telephone facilities, provided that the required quorum is met.
- 17.14 A director unable to attend a board meeting may authorize any other director to vote for him or her at that meeting. In that event the director so authorized, shall have a vote for each director by whom he or she is so authorized, in addition to his or her own vote.
- 17.15 If at any meeting the chairman is not present within fifteen (15) minutes after the time appointed for holding it, the directors present may choose one of their member to be chairman of the meeting.

18 **OPERATION OF SUBCOMMITTEES**

- 18.1 The board may appoint subcommittees for the improved efficiency of the affairs of the company and such subcommittees shall act in accordance with these articles and general principles prescribed by the board from time to time.

- 18.2 Subcommittees shall act only in an advisory capacity and shall not be entitled to take action on any matter or recommendation until approval has been granted therefore in writing by the board.

- 18.3 Authority in terms of this article must be in writing, which may take the form of a telegram, cable, telefax, telex or e-mail and must be handed to the person presiding at the meeting at which it is to be used.

19 **DUTIES OF OFFICERS**

Unless it is otherwise indicated, the duties of the executive officers of the company are as follows -

- 19.1 The Chief Operating Officer -
 - 19.1.1 to do his or her utmost to further the objectives and interests of the company;
 - 19.1.2 to attend to all correspondence of the company;
 - 19.1.3 to keep an accurate record of the proceedings of all meetings of the company;
 - 19.1.4 to hold in safe-keeping all the written records of the company;
 - 19.1.5 to keep an accurate and up-to-date record of the names and addresses of all members of the company;
 - 19.1.6 to receive all monies payable to the company and to pay same into the banking account of the company as soon as possible thereafter;
 - 19.1.7 to co-sign all cheques and transactions drawn on the funds of the company with the chairman;
 - 19.1.8 to keep a proper record of the financial transactions of the company and to issue and obtain proper documents for the receipt and payment of money respectively;
 - 19.1.9 to keep proper records of membership fees and subscriptions paid, and to keep the board informed of members who are in arrears with their subscriptions; and
 - 19.1.10 to perform such and other duties as are delegated to him or her by the chairman and the board.

- 19.2 The chairman –
 - 19.2.1 to preside at all meetings of the company;
 - 19.2.2 to sign the minutes of meetings after adoption;
 - 19.2.3 to represent the company at all public functions and to make on behalf of the company any public announcement which the company or the board deem it necessary to make;

- 19.2.4 to convene all meetings and when necessary, to instruct the secretary to issue notices of meetings and generally to initiate and direct the activities of the board;
- 19.2.5 to co-sign cheques and/or transactions drawn on the funds of the company with the Chief Operating Officer, and
- 19.2.6 to be ex officio a member of all subcommittees of the company.

- 19.3 The vice-chairman –

 - 19.3.1 to act for the chairman in the performance of any duties when the chairman is absent or unable to act; and
 - 19.3.2 to perform such duties as the chairman may delegate to him.

- 19.4 The secretary –

 - 19.4.1 the secretary shall be responsible for the efficient administration of the affairs of the company and shall be directly accountable to the board;
 - 19.4.2 in addition to such duties as the board may delegate to the secretary from time to time, the secretary shall be responsible for ensuring that –
 - 19.4.2.1 minutes are kept of all meetings;
 - 19.4.2.2 all documents and records relating to the affairs of the company are maintained and retained;
 - 19.4.2.3 proper and adequate books of account are kept to record correctly the financial affairs of the company;
 - 19.4.2.4 annual financial statements are drawn up, audited and approved by the company in accordance with the provisions of the Act; and
 - 19.4.2.5 copies of the audited annual financial statements are sent to each member together with a notice of each annual general meeting in accordance with the provisions of the Act.

20 **VALIDITY OF ACTS OF DIRECTORS AND COMMITTEES**

As regards all persons dealing in good faith with the company, all acts done by any meeting of directors or of a committee of directors or of any executives or by a person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment or continuance in office of such directors or persons acting as aforesaid or that they or any of them were disqualified or had ceased to hold office or were not entitled to vote, be as valid as if every such person had been duly appointed or was qualified or had continued to be a director or was entitled to vote, as the case may be.

21 **FINANCIAL MATTERS**

- 21.1 The board shall cause true accounts to be kept of:
 - 21.1.1 the sums of money received and expended by the company and the matters in respect of which such receipt and expenditure took place;

- 21.1.2 all sales and purchases of goods by the company; and
- 21.1.3 the assets and liabilities of the company.
- 21.2 The books and accounts shall be kept at the registered office of the company or at such other place or places as the board may think fit and shall always be open for inspection by the members and the directors of the board.
- 21.3 The board shall from time to time cause to be prepared and to be placed before the company at any annual general meeting, such financial statements as are required.
- 21.4 A copy of the financial statements as applied, which are to be placed before the company at an annual general meeting, and the board and auditor's report shall, not less than 14 days before the date of the meeting, be made available on request to all members entitled to vote at an annual general meeting.
- 21.5 All payments made by the company are to be authorised by the board or the chairman.
- 21.6 The financial year of the company shall be from 1st January to the 31st December of the same year.
- 21.7 Any arrear subscriptions or any levies owing by members to the company may be recovered by action in a court of competent jurisdiction.
- 21.8 Auditors shall be appointed at every annual general meeting and their duties regulated by the board in accordance with the Act.

22 **RESERVES**

The board may set aside reserves out of the profits of the company and continue to carry in reserve such sums as they deem proper.

All sums standing to the credit of revenue and general reserve shall at the discretion of the board be used to meet contingencies, for the gradual liquidation of any debt or liability of the company, for repairing, improving or maintaining any property of the company, for meeting losses on realisation of such losses or writing down investments either individually or in the aggregate, for equalising or paying dividends, or for any other purpose to which profits of the company may appropriately be applied.

Pending any such application of such sums, the reserves may either be employed in the business of the company, without being kept separate from the other assets of the company, or be invested.

The board may divide the reserve into such special reserves as they deem fit and re-allocate the amounts of such reserves either in whole or in part to other special or general reserves and may consolidate into one reserve any special reserves or any part of any special reserves into which the reserve may have been divided.

The board may also carry forward any profits without placing them to reserve.

23 **FEES AND SUBSCRIPTIONS**

- 23.1 The annual membership fees for membership of the company, subscriptions and/or other fees shall be determined by the board at the last meeting of any year, and shall be communicated to the members by way of invoice, effective 1st January of the following year.
- 23.2 Annual fees and/or subscriptions shall –

- 23.2.1 be payable by 31st March, each year;
- 23.2.2 be invoiced on acceptance of membership; and
- 23.2.3 will be calculated on a *pro rata* basis from date of application.
- 23.3 Failure by a member to pay the whole or any part of its fees and/or subscriptions by 31st March in any year shall entitle the board to –
 - 23.3.1 suspend the benefits of membership of such member until such fees and/or subscriptions are paid in full; or
 - 23.3.2 cancel the membership of such member.
 - 23.3.3 Any disputes of members concerning the payment of fees and/or subscriptions shall be referred to the secretary for resolution, whose decision in this regard shall be final.
 - 23.3.4 Any member intending to terminate its membership shall notify the secretary in writing to that effect, prior to the last day of December in each year; failing which such member shall be liable for payment of its fees and/or subscriptions for the whole of the ensuing year.

24 **CODE OF BUSINESS PRACTICE**

- 24.1 The Board shall draft a comprehensive Code of Business Practice ("**the Code**") in terms of this article, and may amend and add to such Code from time to time.
- 24.2 The Code laid down in this article, and as amended from time to time, shall be binding upon all members of the company.
- 24.3 The rules and procedures for the Resolution of Complaints pertaining to the Code, as determined by an Ethics Committee, shall be kept at the company's registered office and shall be available for inspection by members and the board on request once approved by a majority of the board.

25 **ACCOUNTS**

The company shall open and operate such bank accounts as may be necessary to conduct its business, save that such accounts shall be opened only in its own name at a registered commercial bank.

26 **SIGNATURE OF DOCUMENTS**

All powers of attorney, bonds, deeds and other instruments shall be signed and executed on behalf of the company by such director(s) of the board or by such employee(s) of the company as the board shall decide.

27 **INDEMNITY**

27.1 Every director, manager, secretary, auditor, employee and officer of the company shall be indemnified out of the funds of the company against –

27.1.1 all liabilities incurred by him or her in that capacity;

27.1.2 expenditure in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour, or in which he or she is acquitted; or

27.1.3 costs in connection with any application under section 248 of the Act in which relief is granted to him or her by the Court.

27.2 It shall be the duty of the directors to pay out of the funds of the company all costs, losses and expenses for which any such person is indemnified by the company and for which such person may become liable by reason of –

27.2.1 any contract entered into; or

27.2.2 any act done by him or her,

27.2.3 in his or her capacity as director, secretary, manager, auditor or officer of the company or in any way in the discharge of his or her duties.

27.3 Subject to the provisions of the Act, no director, manager, secretary, auditor, officer or employee of the company shall be liable for –

27.3.1 any act, receipt, neglect or fault of any other such officer or servant of the company; or

27.3.2 joining in any receipt or other act; or

27.3.3 loss or expense suffered by the company through the insufficiency or deficiency of title to any property acquired by order of the board for and on behalf of the company; or

27.3.4 the insufficiency or deficiency of any security in or upon which any of the monies of the company have been invested; or

27.3.5 any loss or damage arising from the insolvency or delict of any person with whom any monies, securities or effects have been deposited; or

27.3.6 any loss or damage occasioned by any error of judgement or oversight on his or her part; or

27.3.7 any other loss, damage or misfortune whatsoever incurred in the execution of his or her duties of office or in relation thereto, unless the same occurs through his or her own dishonesty.

28

PROHIBITION ON DISTRIBUTION OF INCOME AND PROPERTY

The income and property of the company, howsoever derived, shall be applied solely towards the promotion of its main and ancillary objectives and objects as stated in the Memorandum of Association of the company and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever, to the members of the company or to its controlling or controlled company, provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the company or to any member thereof in return for any services actually rendered to the company.

29

NOTICES

29.1

Subject to the provisions of these articles, a notice shall be in writing and shall be given or served by the company upon any member or director either by delivery or by sending it through the post, telex, telefax or e-mail properly addressed, to –

29.1.1

a member at the address shown in the register of members; and

29.1.2

a director at his postal address shown in the register of directors.

29.2

every such notice shall be deemed, until the contrary is proved, to have been received-

29.2.1

if it is delivered, telefaxed or e-mailed, on the date on which it is so delivered;

29.2.2

if it is sent by post, on the date following that on which it was posted.

29.3

When a given number of days' notice extending over any period is required to be given, the day of service shall not be counted in the calculation of such number of days or period.

30

WINDING UP

30.1

Upon the winding-up of the company, the assets and liabilities of the company shall not be distributed to the members or any other person, but shall be transferred to a similar organization with goals similar to those of the company.

30.2

The company, in the annual general meeting and at the time of resolving the winding-up of the company, shall identify the other similar association(s) to be beneficiaries in terms of this provision and, in the event of the company failing to identify the beneficiary as herein provided, the responsible Minister of the Republic shall be entitled to determine such beneficiary.

30.3

The company may be wound up if at a special general meeting, called for this purpose or at a ballot conducted in a manner prescribed in these articles, not less than 75 percent of the total number of members of the company entitled to vote, vote in favour of a resolution that the company be wound up.

31 **PATRONS**

The board may from time to time appoint patrons of the company for periods determined by the board.

32 **REVOCATION OF CONSTITUTION OF THE COMPANY**

The Constitution of the company dated 16 May 2007 is hereby revoked and shall be of no further force or effect with effect from the date of adoption of these articles.

I hereby commit to adhere to the SAMED Articles of Association.

On behalf of Company:

_____ (*Company Name*)

Signed:

Position:

Date:

Witness:

Date: