

**MEMORANDUM OF INCORPORATION**

**REPUBLIC OF SOUTH AFRICA  
COMPANIES ACT, 2008**

**FIRE FIGHTING EQUIPMENT TRADERS ASSOCIATION - FFETA (NPC)**

(hereinafter referred to as "the Company")

**NON-PROFIT COMPANY**

**INCORPORATED FOR A COMMUNAL OR GROUP INTEREST BENEFIT OR A PUBLIC BENEFIT**

**IN TERMS OF THE NINTH SCHEDULE OF THE INCOME TAX ACT, ACT 58 OF 1962 AS AMENDED  
(PUBLIC BENEFIT ACTIVITIES)**

**SECTION 10 – SCHEDULE 1 COMPANY**

**DIRECTORS ONLY**

## INTERPRETATION

In this Memorandum, unless the context requires otherwise:

- section or sections refers to a section or sections of the Companies Act, Act 71 of 2008, as amended;
- Regulation or Regulations refers to a Regulation or Regulations of the Companies Regulations, 2011 in terms of section 223 and Item 14 of Schedule 5 of the Companies Act, Act 71 of 2008, as amended;
- words importing any one gender shall include the other two genders;
- the singular shall include the plural and vice versa;
- any word which is defined in the Act shall bear that defined meaning in this Memorandum;
- the headings have been inserted for convenience only and shall not be used for or assist or affect their interpretation; and
- each of the following words and expressions shall have the meaning stated opposite it and cognate expressions shall have a corresponding meaning, namely:

**“Act” or “the Act”** – means the Companies Act, Act 71 of 2008, as amended or re-enacted from time to time, and includes all Schedules to the Act (Companies Regulation Item 2(h) 2011);

**“Alternate Director”** – a person elected or appointed to serve, as the occasion requires, as a member of the Board of the Company in substitution for a particular elected or appointed Director of that Company (section 1 of Act 71/2008);

**“Audit”** – has the meaning set out in the Auditing Profession Act, 2005 (Act 26 of 2005) but does not include an “independent review” of Annual Financial Statements, as contemplated in section 30(2)(b)(ii)(bb) (section 1 of Act 71/2008);

**“Board”** – means the Board of Directors of the Company from time to time;

**“Board Resolution”** – means a Resolution by the Board of Directors where each Director has 1 (one) vote on a matter before the Board and a majority of the votes cast on the Resolution is sufficient to approve it (section 73(5)(c)(d));

**“Director”** – means a member of the Board as contemplated in section 66 or an alternate Director, and includes any person occupying the position of a Director or alternate Director, by whatever name designated. Director includes a Prescribed Officer or a person who is a member of a Committee of a Board of the Company or of the Audit Committee of the Company, if applicable, irrespective of whether or not the person is also a member of the Company’s Board (section 1 of Act 71/2008);

**“External Company”** – a foreign Company that is carrying on business, or non-profit activities, as the case may be, within the Republic of South Africa, subject to section 23(2) (section 1 of Act 71/2008);

**“Financial Reporting Standards”** – with respect to any particular Company’s Financial Statements, means the standards applicable to that Company, as prescribed in terms of section 29(4) and (5) (section 1 of Act 71/2008);

**“Financial Statements”** – includes: Annual Financial Statements and provisional Annual Financial Statements; interim or preliminary reports; group and consolidated financial statements in the case of a group of Companies; and financial information in a circular, prospectus or provisional announcement of results, that an actual or prospective creditor or holder of the Company’s Securities, or the Commission, Panel or other regulatory authority, may reasonably be expected to rely on (section 1 of Act 71/2008);

**“Financial year end”** – means the end of the accounting period covering 12 (twelve) consecutive months over which the Company determines earnings and profits. The financial year serves as a period of reference for the Company and does not necessarily correspond to the calendar year;

**“Income Tax Act”** – means the Income Tax Act, Act 58 of 1962, as amended;

**“Independently compiled and reported”** – means that the Annual Financial Statements are prepared:

- (a) by an independent accounting professional;
- (b) on the basis of financial records provided by the Company; and
- (c) in accordance with any relevant financial reporting standards (Companies Regulation 26(1)(e)(i) to (iii) 2011);

**“Independent reviewer”** – means a person referred to in Companies Regulation 29(4) and who has been appointed to perform an independent review under this Regulation (Companies Regulation 29(1)(a) 2011);

**“Non-Profit Company”** – means a Company –

- (a) incorporated for a public benefit or other object as required by Item 1(1) of Schedule 1; and
- (b) the income and property of which are not distributable to its Incorporators, Directors, Prescribed Officers or persons related to any of them except to the extent permitted by Item 1(3) of Schedule 1;

**“Ordinary Resolution”** – means a Resolution adopted with the support of more than 50% (fifty percent) of the Voting rights exercised on the Resolution, or a higher percentage as contemplated in section 65(8):

- (a) at a Directors’ Meeting; or
- (b) by Directors acting other than at a Meeting, as contemplated in section 60 (section 1 of Act 71/2008 as amended by section 1(1)(u) of Act 3/2011);

**“Prescribed Officer”** – means a person who, within the Company, performs any function that has been designated by the Minister in terms of section 66(10) despite not being a Director of a particular Company. A person is a “Prescribed Officer” of the Company for all purposes of the Act if that person exercises general executive control over and management of the whole, or a significant portion, of the business and activities of the Company; or regularly participates to a material degree in the exercise of general executive control over and management of the whole, or a significant portion, of the business and activities of the Company (section 1 of Act 71/2008 as amended by section 1(1)(x) of Act 3/2011);

**“Public Benefit Activity”** – means a public benefit activity listed in Part I of the Ninth Schedule of the Income Tax Act;

**“Public Benefit Organisation”** – means a Public Benefit Organisation as defined in section 30(1) of the Income Tax Act;

**“Quorum”** – is not defined in the Act but means the minimum number of Directors of the Company, who are entitled to vote, that must be present to make a Board Meeting valid;

**“Republic”** – means the Republic of South Africa;

**“Solvency and Liquidity Test”** – has the meaning attributed thereto in section 4; being the test the Company satisfies if at a particular time, considering all reasonably foreseeable circumstances at that time:

- (a) the Company’s assets, as fairly valued, equal or exceed its liabilities, as fairly valued and
- (b) it appears that the Company will be able to pay its debts as they become due in the ordinary course of business for a period of 12 (twelve) months after the date on which the test is considered or 12 (twelve) months following the distribution. (section 1 of Act 71/2008);

**“Special Resolution”** – means:

- (a) in the case of the Company, a Resolution adopted with the support of at least 75% (seventy five percent) of the Voting rights exercised on the Resolution in terms of section 65(8) or a different percentage as contemplated in section 65(10):
  - (i) at a Directors’ Meeting or
  - (ii) by Directors acting other than at a Meeting, as contemplated in Section 60; or
- (b) in the case of any other juristic person, a decision by the owner or owners of that person, or by another authorised person, that requires the highest level of support in order to be adopted, in terms of the relevant law under which that juristic person was incorporated (section 1 of Act 71/2008 as amended by section 1(1)(cc) of Act 3/2011);

**“Voting rights”** – with respect to any matter to be decided by the Company, means the rights of any Director of the Non-Profit Company to vote in connection with that matter (section 1 of Act 71/2008).

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**MEMORANDUM OF INCORPORATION OF A NON-PROFIT COMPANY (NPC)**  
**REPUBLIC OF SOUTH AFRICA**  
**COMPANIES ACT, ACT NO 71 OF 2008**

Fire Fighting Equipment Traders Association - FFETA (NPC) which is a Non-Profit Company and which is hereinafter referred to as “the Company” in the rest of this Memorandum of Incorporation, has the prescribed minimum number of at least 3 (three) Directors in terms of section 66(2)(b) and where the Incorporators may be its first Directors, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Company and no single person shall have the ability or authority, either directly or indirectly, to control the decision-making powers relating to the Company. Spouses and anyone related to the person or the persons’ spouse within the third degree of consanguinity shall be regarded as connected persons. *Item 3 of Schedule 1 of the Act, and Section 30(3)(a)(i) of the Income Tax Act*

**The Number of Directors is reflected in Schedule One at the end of this Memorandum of Incorporation.**

**Adoption of Memorandum of Incorporation**

This Memorandum of Incorporation was adopted on .....2023 by the Incorporators and/or first Directors of the Company, in accordance with section 13(1) of the Act, as evidenced by the following signatures made by each of them, or on their behalf, and the Board shall submit to the Commissioner of the South African Revenue Services, a copy of this Memorandum of Incorporation under which the Company has been established, and the Company shall comply with such reporting requirements as may be determined by the said Commissioner from time to time.

**Default Memorandum of Incorporation not to apply**

The standard form Memorandum of Incorporation for a Non-Profit Company referred to in Regulation 15(1)(a) shall not apply to the Company. This Memorandum of Incorporation is in a form unique to the Company as contemplated in section 13(1)(a)(ii).

**Registered Office for which the Company is established**

The Registered Office of the Company shall be situated at:

1<sup>st</sup> Floor, East Helvetia House  
Greenvale Road  
Germiston 1401

**Objects of the Company**

This Memorandum of Incorporation of the Company sets out at least 1 (one) object of the Company and each object is either a public benefit object or activities as defined in section 30(1) of the Income Tax Act (Act 58 of 1962 as amended) or an object relating to 1 (one) or more cultural or social activities, or communal or group interests, including any sector thereof, in terms of Item 1(1)(a) of Schedule 1 of the Companies Act (Act 71 of 2008 as amended).

All such activities are carried on in a non-profit manner and with an altruistic or philanthropic interest and no such activity shall be intended to directly or indirectly promote the economic self-interest of any fiduciary or employee of Fire Fighting Equipment Traders Association - FFETA (NPC), otherwise than by way of reasonable remuneration payable to that fiduciary or employee in terms of Article: Incorporation and Nature of the Company and Article: Board, Directors and Prescribed Officers of this Memorandum of Incorporation. *Section 30(3)(b)(i)(ii) of the Income Tax Act*

**The primary object of the Company on its incorporation is:**

.....  
.....



**Table of Signatories of Directors**

Names of all Directors / all Incorporators	Identity Number Certified ID of each Signatory to attach with MOI on submission	Signature	Date
Belinda Van der Merwe	6408130094088		Date of Incorp.
Pragasen Govender	7705085140082		Date of Incorp.
Sean Okhuysen	9205225720084		Date of Incorp.

## ARTICLE 1 – INCORPORATION AND NATURE OF THE COMPANY

### 1.1 Incorporation

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) is incorporated as a Non-Profit Company, in terms of Schedule 1 and section 10 of the Companies Act, Act 71 of 2008 and section 122 of the Companies Amendment Act, Act 3 of 2011.
- (2) Fire Fighting Equipment Traders Association - FFETA (NPC) is incorporated in accordance with and governed by the unalterable provisions of the Companies Act, 2008, meaning a provision of the Companies Act that does not expressly contemplate that its effect on any particular Company may be negated, restricted, limited, qualified, extended or otherwise altered in substance or effect by this Company's Memorandum of Incorporation or Rules and the alterable provisions of the Companies Act, meaning a provision of the Companies Act in which it is expressly contemplated that its effect on a particular Company may be negated, restricted, limited, qualified, extended or otherwise altered in substance or effect by this Company's Memorandum of Incorporation, subject to the limitations, extensions, variations or substitutions set out in this Company's Memorandum of Incorporation, and the provisions of this Company's Memorandum of Incorporation, which forms the Constitution of the Company. *Section 1*
- (3) Fire Fighting Equipment Traders Association - FFETA (NPC) shall apply all of its assets and income, however derived, to advance its stated objects, as set out above in this Memorandum of Incorporation. The income and property of the Company shall not be distributable to its Incorporators, Directors, Prescribed Officers or persons related to any of them except to the extent permitted by Item 1(3) of Schedule 1. *Item 1(2)(a) of Schedule 1 and Item 1(3) of Schedule 1*
- (4) This Memorandum of Incorporation does not limit or restrict the Company to acquire and hold securities issued by a profit Company or directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to its stated objects. The Non-Profit Company may conduct any business, including a commercial venture, as long as the funds generated are applied to advance the Company's primary object. *Item 1(2)(b)(i)(ii) of Schedule 1*
- (5) Fire Fighting Equipment Traders Association - FFETA (NPC) shall not directly or indirectly, pay any portion of its income or transfer any of its assets, regardless of 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:

- (5.1) as reasonable remuneration for goods delivered or services rendered to, or at the direction of, the Company, or payment of, or reimbursement for, expenses incurred to advance a stated object of the Company;
- (5.2) 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;
- (5.3) 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
- (5.4) in respect of any legal obligation binding on the Company. *Item 1(3)(a)(i)(ii) and Item 1(3)(b)(c)(d) of Schedule 1 of the Act and section 122(b) of Act 3 of 2011*
- (6) Section 10 of the Income Tax Act, 1962 (Act 58 of 1962) grants exemptions from income tax to Public Benefit Organisations (PBOs) and in terms of section 30(3)(b) of the Income Tax Act, the Company meets stringent requirements for approval as a Public Benefit Organisation. *Item 1(6) of Schedule 1*
- (7) Under section 18A(2A) of the Income Tax Act, Fire Fighting Equipment Traders Association - FFETA (NPC) carries on activities covered by both Parts I and II of the Ninth Schedule of the Income Tax Act, and ensures that donations are only used towards these activities.
- (8) Fire Fighting Equipment Traders Association - FFETA (NPC) is prohibited in terms of this Memorandum of Incorporation from directly or indirectly distributing any of its funds or assets to any person other than in the course of furthering its objects as set out in this Memorandum of Incorporation.
- (9) Fire Fighting Equipment Traders Association - FFETA (NPC) is required to utilise substantially the whole of its funds for the sole or principal object for which it has been established.
- (10) Substantially the whole of the activities of Fire Fighting Equipment Traders Association - FFETA (NPC) shall be directed to the furtherance of its sole or principal object and not for the specific benefit of an individual Director or minority group.

- (11) Substantially, the whole of The Company's funding shall be derived from its Board of Directors or from an appropriation by the Government of the Republic of South Africa in the national, provincial or local sphere.
- (12) In the event that Fire Fighting Equipment Traders Association - FFETA (NPC) applies for approval as a Public Benefit Organisation, this Memorandum of Incorporation shall be submitted to the Tax Exemption Unit (TEU) at the South African Reserve Services (SARS) and a copy of any future amendments to this Memorandum of Incorporation shall be submitted to the Tax Exemption Unit.

*Section 30(3)(xi) of the Income Tax Act*

## **1.2 Powers of the Company**

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) is not subject to any prohibitions regarding the amendment of this Memorandum of Incorporation, other than those contained in the Companies Act or the Income Tax Act.

## **1.3 Memorandum of Incorporation and Company Rules**

- (1) In terms of this Memorandum of Incorporation the Company is not limited from making, amending or appealing any Company Rules as contemplated in section 15(3) of the Act, and the Board's capacity to make such Rules is not hereby limited or restricted. *Section 15(3)*
- (2) The Board shall publish these Company Rules in terms of section 15(3), (4) and (5) by delivering a copy of the Rules to each Director, by publishing a copy of those Rules in any manner required or permitted by the Company's Memorandum of Incorporation, or the Rules of the Company, and filing a copy of those Rules. *Section 15(3)(a)(b)*
- (3) Any Rules proposed by the Board will take effect 10 (ten) business days after the filing of that Rule, or on the later date specified in the Rule.

Any Rule that takes effect as contemplated in this sub-article shall remain binding on an interim basis until put to a vote at the next General Meeting of the Company and shall become permanently binding if ratified by a Board Resolution. In the event that a Rule may not be filed, the Board shall promptly inform each Director of this result by ordinary mail.

## **1.4 Solvency and Liquidity Test**

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) shall satisfy the Solvency and Liquidity Test at a particular time if, considering all reasonably foreseeable financial circumstances

of the Company at that time, the assets of the Company, as fairly valued, equal or exceed the liabilities of the Company, as fairly valued, and it appears that the Company will be able to pay its debts as they become due in the ordinary course of business for a period of 12 (twelve) months after the date on which the test is considered, or in the case of a distribution, 12 (twelve) months following that distribution. *Section 4(1)(a) and (b) of the Act and section 2(a) of Act 3 of 2011*

- (2) The Board or any other person applying the Solvency and Liquidity Test to the Company shall consider a fair valuation of the Company's assets and liabilities, including a reasonably foreseeable contingent assets and liabilities, or may consider any other valuation of the Company's assets and liabilities that is reasonable in the circumstances. *Section 4(2)(b)(i)(ii)*

## **1.5 Interpretation of the Memorandum of Incorporation, Anti-avoidance, Exemptions and Substantial Compliance**

- (1) When, in this Memorandum of Incorporation, a particular number of 'business days' is provided for between the happening of one event and another, the number of days shall be calculated by excluding the day on which the first such event occurs, including the day on or by which the second event is to occur, and excluding any public holiday, Saturday or Sunday that falls on or between the days. *Section 5(3)(a)(b)(c)*
- (2) If a provision of this Memorandum of Incorporation requires a document to be signed or initialled by or on behalf of a person, that signing or initialling may be effected in any manner provided for in the Electronic Communications and Transactions Act, or by 2 (two) or more persons, it shall be sufficient if all of those persons sign a single original of the document, in person or in the manner provided for in the Electronic Communications and Transactions Act, or each of those persons signs a separate duplicate original of the document, in person or in the Electronic Communications and Transactions Act, and in such case, the several signed duplicate originals, when combined, constitute the entire document. *Section 6(12)(a) and section 6(12)(b)(i)(ii)*

## **1.6 Amending the Memorandum of Incorporation**

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC)'s Memorandum of Incorporation may be amended subject to Article Incorporation – Powers of the Company:
  - (1.1) in compliance with a Court Order in the following manner: an amendment to a Company's Memorandum of Incorporation required by any Court Order must be effected by a Resolution of the Company's Board and does not require a Special Resolution as set out in this clause; or

(1.2) at any other time if a Special Resolution to amend it is proposed by the Board of the Company.

(2) Within 10 (ten) business days after an amendment to the Company's Memorandum of Incorporation has been effected in any manner contemplated in this sub-article, the Company shall submit a copy of any amendment to this Memorandum of Incorporation to the Tax Exemption Unit, enabling the Tax Exemption Unit to ensure that any amendment shall not be contradictory to the conditions and requirements for either the continued or new approval of Fire Fighting Equipment Traders Association - FFETA (NPC) as a Public Benefit Organisation. *Section 30(3)(b)(vi) of the Income Tax Act*

## **1.7 Legal Status of the Company**

(1) From the date and time that the incorporation of the Company is registered, as stated in its registration certificate, the Company is a juristic person, which exists continuously until its name is removed from the Company's register in accordance with this Act, has all of the legal powers and capacity of an individual, except to the extent that a juristic person is incapable of exercising any such power, or having any such capacity, or the Company's Memorandum of Incorporation provides otherwise, is constituted in accordance with the unalterable provisions of this Act, the alterable provisions of the Act, subject to any negation, restriction, limitation, qualification, extension or other alteration that is contemplated in an alterable provision, and has been noted in the Company's Memorandum of Incorporation, and any further provisions of the Company as set out in the Company's Memorandum of Incorporation. *Section (1)(a), section 19(1)(b)(i) and section 19(1)(c)(i)(ii)(iii)*

(2) No persons shall solely by reason of being an Incorporator or Director of the Company, be liable for any liabilities and obligations of the Company. *Section 19(2)*

## **1.8 Validity of the Company's Actions**

(1) The Company's Memorandum of Incorporation limits, restricts, qualifies the purposes, powers or activities of the Company, or limits the authority of the Directors to perform an act on behalf of the Company. The Board Resolution may ratify any action by the Company or the Directors, that is inconsistent with any such limit, restriction or qualification, but such an action may not be ratified if it is in contravention of this Memorandum of Incorporation.

No action of the Company is void by reason only that, the action was prohibited by that limitation, restriction or qualification, or as a consequence of that limitation, restriction or qualification, the Directors had no authority to authorise the action by the Company, and in any legal proceeding, other than proceedings between the Company and its Directors, no person may rely on such limitation, restriction or qualification to assert that an action contemplated in this clause of this Memorandum of Incorporation is void. *Section 20(1)(a)(i)(ii), section 20(1)(b)(i)(ii) and section 20(2)(3)*

## **1.9 Prohibition from Distribution**

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) is prohibited from directly or indirectly distributing any of its funds to any person, other than in the course of undertaking any public benefit activity, and is requested to utilise its funds solely for the said object for which it has been established as stated in this Memorandum of Incorporation under the heading of Objects of the Company. *Section 30(3)(b)(ii) of the Income Tax Act*

## **1.10 Investments**

- (1) In the event that Fire Fighting Equipment Traders Association - FFETA (NPC) does not utilise its funds solely for the object for which it has been established, the Company shall invest such funds with a Financial Institution as defined in section 1 of the Financial Services Board Act, Act 97 of 1990, or in any Listed Financial Instrument of the said Financial Institutions, or such other prudent investments in Financial Instruments and Assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and the Director of Non-Profit Organisations, provided that this clause of this Memorandum of Incorporation shall not prohibit the Company from retaining any investment, other than any instrument in the form of a business undertaking or trading activity or asset which is used in such business undertaking or trading activity in the form that it was acquired by way of donation, bequest or inheritance. *Section 30(3)(b)(aa)(bb) of the Income Tax Act*

## **1.11 Non-Revocable Documents**

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) is prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act, provided that a donor, other than a donor which is an approved Public Benefit Organisation or an Institution Board or Body which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act, which has either as its sole or its principal object, the carrying

on of any public benefit activity, is prohibited in terms of this Memorandum of Incorporation to impose conditions which could enable such donor or any connected person in relation to such donor, to derive some direct or indirect benefit from the application of such donation.

This prohibition shall not, however, apply when the donor is an approved Public Benefit Organisation or an entity established by or under law which is exempt from income tax under section 10(1)(cA)(i) of the Income Tax Act that has as its sole or principal object the carrying on of a Public Benefit Organisation.

- (2) It shall be acceptable for the donation to be revocable if a Public Benefit Organisation misrepresents the tax deductibility of the donation under section 18A of the Income Tax Act and such tax deductibility was a condition of the donation. *Section 30(3)(v) of the Income Tax Act*



## ARTICLE 2 – BOARD, DIRECTORS AND PRESCRIBED OFFICERS

### 2.1 First Director or Directors

- (1) Each Incorporator of the Company is a first Director of the Company and serves until sufficient other Directors have been first elected to satisfy the minimum requirements of this Memorandum of Incorporation. *Section 67(1)(a)(b)*
- (2) In the event of the number of Incorporators of the Company together with any *ex officio* Directors, or Directors to be elected in terms of this sub-article is fewer than the minimum number of Directors required for the Company in terms of the Act, or the Company's Memorandum of Incorporation, the Board shall call a General Meeting within 40 (forty) business days after incorporation of the Company for the purpose of electing sufficient Directors to fill all vacancies on the Board at the time of the election. *Section 67(2)*
- (3) The Board must comprise in the case of this Non-Profit Company at least 3 (three) Directors in terms of section 66(2)(a).
- (4) This Memorandum of Incorporation provides for the Company to have Directors and since the Directors are to be elected by the Board, this Memorandum of Incorporation provides for the election of at least one-third of those elected Directors each year. *Item 5(1)(b) of Schedule 1*

### 2.2 Election of Directors

- (1) This Memorandum of Incorporation provides for:
  - (1.1) the election of executive and non-executive Directors by the Board;
  - (1.2) a person to be an *ex officio* Director of the Company as a consequence of that person holding some other office title, designation or similar status;
  - (1.3) the election of 1 (one) or more persons as alternate Directors of the Company. *Section 66(4)(a)(I)–(iii) and Item 5 of Schedule 1*
- (2) A person becomes entitled to serve as a Director of this Company when that person:
  - (2.1) has been elected in accordance with Item 5 of Schedule 1, or holds an office, title, designation or similar status, entitling that person to be an *ex officio* Director of the Company; and

- (2.2) has delivered to the Company a written consent to serve as its Director. *Section 66(7)(a)(b) of the Act and section 44(b) of Act 3 of 2011*
- (3) Any particular Director may be elected to more than 1 (one) Committee of the Company and when calculating the minimum number of Directors required for this Company, being not less than 3 (three) Directors, a Director who has been elected to more than 1 (one) Committee must be counted only once. *Section 66(12)*
- (4) A person contemplated in clause 1 of this sub-article who holds office or acts in the capacity of an *ex officio* Director of a company has all the:
- (4.1) powers and functions of any other Director of the Company, except to the extent that the Company's Memorandum of Incorporation restricts the powers and functions or duties of an *ex officio* Director; and
- (4.2) duties, and is subject to all of the liabilities, of any other Director of the Company. *Section 66(5)(b)(i)(ii)*
- (5) In any election of Directors the election is to be conducted as a series of votes, each of which is on the candidacy of a single individual to fill a single vacancy, with the series of votes continuing until all vacancies on the Board at that time have been filled; and in each vote to fill a vacancy where each Voting right entitled to be exercised may be exercised once and the vacancy is filled only if a majority of the Voting rights exercised support the candidate. *Section 66(2)(a)(b)(i)(ii)*
- (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 by election in terms of this Memorandum of Incorporation. During that period, any person so appointed has all the powers, functions and duties and is subject to all of the liabilities of any other Director of the Company. *Section 68(3)*
- (7) A person elected or appointed as an alternate for a Director, acts for all intents and purposes in the place of, and not for or as a representative of, the Director for whom he is an alternate, and shall be treated as a Director of the Company while he acts in the place of the Director for whom he is an alternate.

While acting in the place of the Director for whom he is an alternate, the alternate Director may generally exercise all the rights of that Director and shall, in all aspects, be subject to the terms and conditions existing with reference to the appointment, rights and duties as Director and the holding of office of that Director, and shall not have any claim of any nature whatsoever against the Company for any remuneration with respect to his services as a Director or his appointment as an alternate.

A person may be elected or appointed as an alternate for 1 (one) or more Directors. *Section 66(4)(b)*

- (8) An alternate shall only be entitled to vote at any Meeting if the Director for whom he is an alternate is not present at that Meeting, provided that the alternate may also attend a Meeting at which the Director for whom he is an alternate is present if the other Directors present at the Meeting, resolve that he may attend, provided further, that in the circumstances when the Director for whom he is an alternate, is present, then the alternate shall not be counted towards a quorum and shall recuse himself from the Meeting if requested by any Director to do so.

Any person attending a Meeting of Directors as an alternate for 1 (one) or more Directors in the absence of such Director(s) shall only have 1 (one) vote and shall not be entitled to more than 1 (one) vote at any such Meeting.

An alternate shall only be entitled to sign a Round-Robin Resolution if the Director for whom he is an alternate is then absent from the Republic of South Africa or is out of reach of communication or is incapacitated.

The appointment of an alternate shall cease, and he shall vacate his office as an alternate, if:

- (8.1) the alternate was appointed by the Board and the Board gives notice to that alternate terminating his appointment;
- (8.2) the person, for whom another person has been elected or appointed as an alternate, ceases to be a Director of the Company or ceases to be entitled to serve as a Director, for any reason; or
- (8.3) an event occurs or circumstances arise, in relation to an alternate, which if he were a full Director would cause him to cease to be entitled to serve as a Director in terms of the Companies Act or this Memorandum of Incorporation. *Section 66(4)(b)*

## 2.3 Governance of the Board

- (1) The business and affairs of the Company shall be managed by or under the direction of its Board, which has the authority to exercise all of the powers and perform any of the functions of the Company, as set out in section 66(1), is limited, restricted and qualified by this Memorandum of Incorporation except to the extent that the Act and this Memorandum of Incorporation provides otherwise in terms and to the extent set out in Item 11(1) of Schedule 5 of the Act. The Directors may from time to time, at their discretion, raise or borrow or secure the payment of any sum or sums of money for the purposes of the Company. *Section 66(1)*
  
- (2) The Directors may, at any time and from time to time, by power of attorney appoint any person or persons to be the attorney or attorneys and agent(s) of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors in terms of this Memorandum of Incorporation including the right of sub-delegation) and for such period and subject to such conditions as the Directors may from time to time think fit. Any such appointment may, if the Directors think fit, be made in favour of any Company, the Directors, Nominees or Managers of any Company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Directors. Any such Power of Attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys and agents as the Directors think fit. Any such attorneys or agents as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them.

Save as otherwise expressly provided herein, all cheques, promissory notes, bills of exchange and other negotiable or transferable instruments, and all documents to be executed by the Company, shall be signed, drawn, accepted, endorsed or executed, as the case may be, in such manner as the Directors shall from time to time determine.

## 2.4 Vacancies on the Board

- (1) A person shall cease to be a Director and a vacancy arises on the Board of the Company:
  - (1.1) when the person's term of office as Director expires; or
  - (1.2) in any case, if the person:
    - (1.2.1) resigns or dies;

(1.2.2) in the case of an *ex officio* Director, ceases to hold the office, title, designation or similar status that entitled the person to be an *ex officio* Director;

(1.2.3) becomes incapacitated to the extent that the person is unable to perform the functions of a Director, and is unlikely to regain that capacity within a reasonable time subject to section 71(3);

(1.2.4) is declared delinquent by a court or placed on probation under conditions that are inconsistent with continuing to be a Director of the Company in terms of section 162;

(1.2.5) becomes ineligible or disqualified in terms of section 69 subject to section 71(3); or

(1.2.6) is removed:

(1.2.6.1) by Resolution of the Board in terms of section 71(3); or

(1.2.6.2) by order of the court in terms of section 71(5) or (6). *Section 70(1)(a)(b)(i)-(vi)*

- (2) If a vacancy arises on the Board, the Board may in terms of section 68(3) elect 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 earlier of the vacancy being filled by election by the Board in terms of section 68(2) or the conclusion of the next General Meeting of the Company after the temporary filling.

If a vacancy arises on the Board, and, as a result thereof, the Company does not have the minimum number of Directors required by the Act or this Memorandum of Incorporation, the Board shall within the period of 3 (three) months from the date such a vacancy arose, continue to function in terms of section 66(11) and shall fill the vacancy on a temporary basis as provided for above or convene a General Meeting for the purposes of the Board Members conducting an election to fill such vacancy in terms of section 68(2).

After the expiry of the 3 (three) month period, the remaining Directors on the Board shall only be permitted to act for the purposes of filling the vacancy or calling a General Meeting of Board Members for purposes of an election in terms of section 68(2).

If at any time the number of Directors falls below the number required as a quorum the continuing Directors may act for the purpose of appointing sufficient Directors to constitute a quorum or for convening a General Meeting but for no other purpose.

## 2.5 Removal of Directors

(1) In terms of section 71(1) a Director elected by the Board may be removed by an Ordinary Resolution adopted at a Board Meeting entitled to exercise Voting rights in the election of that Director, despite anything to the contrary in this Memorandum of Incorporation, or any agreement between the Company and that Director:

(1.1) before the said Directors may consider the above Resolution:

(1.1.1) the Director concerned must be given notice of the Meeting and the Resolution;  
and

(1.1.2) the Director must be afforded a reasonable opportunity to make a presentation to the Meeting either in person or through a representative before the Resolution is put to a vote. *Section 71(1) and section 71(1)(2)(a)(b)*

(2) Fire Fighting Equipment Traders Association - FFETA (NPC) has at least 3 (three) Directors, and if a Director contends that a person should be removed as a Director of the Company by the Board on any of the following grounds set out in section 71(3):

(2.1) has become:

(2.1.1) ineligible or disqualified in terms of section 69; or

(2.1.2) incapacitated to the extent that the Director is unable to perform the functions of a Director and is unlikely to regain that capacity within a reasonable time;

(2.2) or has neglected or been derelict in the performance of the functions of a Director,

that Director shall first submit to the Board each of its contentions and the specific grounds of each such allegation and shall submit to the Board all evidence available on which the Director relies on for making the contention and allegation. On receipt thereof the Board must study such submission, investigate the allegation and determine the matter by Resolution in accordance with and subject to the procedures and its power to do so as set out in section 71(3) to (10).

- (3) This Memorandum of Incorporation prohibits the removal of a Director by Directors acting other than at a Meeting in terms of section 74 where a decision may be adopted by written consent of the majority of Directors, given either in person or by electronic communication, since the Director concerned must be afforded a reasonable opportunity to make a presentation at a Board Meeting, in person or through a representative, before the Resolution to remove him is put to a vote. *Section 71*
- (4) A Director may be entitled to resign as Director on 30 (thirty) days' written notice to the Company or on such shorter notice as the Board may determine.

## 2.6 Board Committees

- (1) This Memorandum of Incorporation does not limit, restrict or qualify the authority of the Board to appoint any number of Committees of Directors; or to delegate to any such Committee any of the authority of the Board.

Except to the extent that the Board establishing a Committee provides otherwise, the members of the Board Committee:

- (1.1) may include persons who are not Directors of the Company but any such persons must not be ineligible or disqualified to be a Director in terms of section 69 of the Act;
  - (1.2) may consult with or receive advice from any person;
  - (1.3) may be remunerated for their services as such; and
  - (1.4) provided that the Committee is duly constituted, have the full authority of the Board in respect of any matter referred to it. *Section 72(1)(a)(b) and section 72(2)(a)(b)*
- (2) The members of each Board Committee shall hold and conduct their Meetings in accordance with the provisions of the Board and Board Committees Charter and the Rules of the Company

governing the holding and conduct of such Meeting, which provisions are binding on each Board Committee Member in terms of section 15(6)(c)(ii). Any Board Committee formed shall conform to any regulations that may from time to time be imposed upon it by the Board, provided that the Meetings and proceedings of any Board Committee consisting of 2 (two) or more Board Members shall be governed by the provisions contained in this Memorandum of Incorporation regulating the Meetings and proceedings of the Board, so far as the same are applicable thereto, and are not superseded by any regulation made by the Board.

- (3) If the Company has in any 2 (two) of the previous 5 (five) years, scored above 500 (five hundred) points in terms of its Public Interest Score, the Company shall appoint a Social and Ethics Committee, unless it is a subsidiary of another Company that has a Social and Ethics Committee, and the Social and Ethics Committee of that other Company which will perform the functions required by this regulation on behalf of that subsidiary Company; or it has been exempted by the Tribunal. *Regulation 43(2)(a)(b)*
- (4) If and for as long as it is required to do so in terms of the Act or the Regulations and unless the Company is exempted from doing so by the Tribunal, in terms of section 72(5) of the Act, the Board may appoint a Social and Ethics Committee having the powers and functions prescribed in terms of section 72(4) of the Act and Regulation 43(2), which Committee shall comprise not less than 3 (three) Directors or Prescribed Officers of the Company, at least 1 (one) of whom must be a Director who is not involved in the day to day management of the Company's business, and must not have been so involved within the previous 3 (three) financial years. (Regulations 43(2) and (4)). The Social and Ethics Committee is governed by, and is subject to, the terms and conditions of the Board and Board Committees Charter read with the Act and the Regulations. *Section 15(6)(c)(ii), section 72(1), section 72(2)(a)(i)(ii), section 72(2)(b)(c), section 72(4), Regulation 43(2) and Regulation 43(4)*
- (5) If a Company exists on the effective date and is required to have a Social and Ethics Committee, it shall appoint the first members of the Committee within 12 (twelve) months after the effective date, or the determination by the Tribunal of the Company's application. *Regulation 43(3)(i)(ii)*
- (6) In the event the Company has a Social and Ethics Committee, the said Committee is entitled to:
  - (6.1) require from any Director or Prescribed Officer of the Company any information or explanation necessary for the performance of the Committee's functions;



- (6.2) request from any employee of the Company any information or explanation necessary for the performance of the Committee's functions.

Fire Fighting Equipment Traders Association - FFETA (NPC) shall pay all the expenses reasonably incurred by its Social and Ethics Committee including, if the Social and Ethics Committee considers it appropriate, the costs or the fees of any consultant or specialist engaged by the Social and Ethics Committee in the performance of its functions. *Section 72(9)*

- (7) The Board shall have the power to appoint, and at its discretion to remove or suspend, a local Board Committee or Board Committees in any foreign country whatsoever and to fix and vary their remuneration; to establish and keep registered offices and branch registers in any foreign country whatsoever and to close same at its discretion; and to appoint and remove agents who represent the Company for such purposes as the Board may determine. The Board shall have the power to, at any time and from time to time, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes of this item with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board in terms of the Act and this Memorandum of Incorporation) 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 thinks fit, be made in favour of the members of any foreign Committee established as aforesaid, or in favour of any company, or of the 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 provisions for the protection or convenience of persons dealing with such attorneys as the Board thinks fit. Any such delegates 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 it. *Section 72(1)(a)*

## 2.7 Board Meetings

- (1) A Director authorised by the Board of the Company may call a Meeting of the Board at any time, and shall call such a Meeting if required to do so by at least 25% (twenty five percent) of the Directors where the Board has 12 (twelve) members or more, or more than 2 (two) Directors in any other case. *Section 73(1)(a)*
- (2) The Directors of the Company convening a Board Meeting may determine the location of the Meeting, including the location of a Meeting which has been adjourned, provided that the location shall be the Registered Office of the Company or a suitable venue in the Republic of South Africa which is reasonably accessible to each Director.

- (3) The authority of the Board to conduct a Meeting entirely by electronic communication, or to provide for participation in a Meeting by electronic communication, is not limited or restricted by this Memorandum of Incorporation.

The electronic communication facility employed by the Company must ordinarily enable all persons participating in that Meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the Meeting. *Section 73(3)*

A Resolution adopted by Directors, some or all of whom were connected electronically, where:

- (3.1) Directors connected electronically remained connected for the duration of that part of the Meeting when the Resolution was discussed;
- (3.2) the subject matter of the Resolution has been discussed; and
- (3.3) the Chairman of the Meeting or any other Director present in person or electronically certifies in writing that the aforementioned requirements have been met,

shall be deemed to have been passed on the date on which the Resolution was adopted.

Within 10 (ten) business days after the adoption or failing of a Resolution at a Meeting or where some or all of the Directors were connected and participated electronically in terms of this clause the Company shall:

- (3.4) deliver to each Director of the Company a copy of the Resolution proposed, accompanied by a statement describing the results of the vote; and
- (3.5) insert a copy of the Resolution proposed and statement in the minute book of the Company.

A Director who participated in a Meeting at any time electronically in terms of this article shall be deemed to be present at the Meeting in question, and counted towards a quorum, while so participating.

The Board determines the manner, form and time of providing notice of its Meetings as set out in section 73(4) and is not limited or restricted by this Memorandum of Incorporation. The Directors may meet together for the dispatch of business, adjourn or otherwise regulate their Meetings as they see fit, subject to the provisions of the Act and this Memorandum of Incorporation.

In terms of item 11(2) of Schedule 5, a notice given by any person to another person in terms of any provision of the previous Act, shall be considered as notice given in terms of any comparable provision of the Act, as from the date that the notice was given under the previous Act. *Section 73(4)(a)(b)*

- (4) If all of the Directors of the Company acknowledge actual receipt of the notice are present at a Meeting or waive notice of the Meeting, the Meeting may proceed even if the Company failed to give the required notice of that Meeting, or there was a defect in the giving of the notice. *Section 73(5)(b)(c)(d)(e)*
- (5) Minutes of Board and Board Committee Meetings must include all Resolutions adopted by the Board or Board Committees, as the case may be, and must include all declarations of personal financial interests given by notice or made by a Director in terms of section 75. *Section 73(6)*
- (6) Each Resolution adopted by the Board must be dated and sequentially numbered and are effective as of the date of the Resolution, unless the resolution states otherwise. *Section 73(7)(a)*
- (7) Signature of the minutes or of a Resolution by the chair of the Meeting (or by the chair of the next Meeting) is evidence of the proceedings of that Meeting, or adoption of the Resolution, as the case may be.

An extract from such minutes or extract from any Resolution in writing, if signed by any Director or the Company Secretary, shall be evidence of the matters stated in such minutes or extract. *Section 73(8)*

## **2.8 Board Quorum**

- (1) A Board Meeting may not begin unless the majority of the Directors are present in terms of section 73(5)(b).

A matter to be decided at the Board Meeting may not begin to be considered unless the majority of the Directors are present.

For purposes of counting a quorum at any time, a Director or his alternate who is personally present at the Meeting, or who participates in person electronically in terms of Article: Board, Directors and Prescribed Officers – Board Meetings at that time, shall be counted towards a quorum at that time.

A person whose election as Director including as an alternate Director is a nullity in terms of section 66(6), or who ceases to be a Director in terms of section 70, shall not be counted towards any quorum of Directors.

## 2.9 Board Resolutions

- (1) The Board may propose any Resolution to be considered by Directors and may determine whether that Resolution will be considered and voted on at a Meeting of the Board or by Round-Robin Resolution. *Section 65(2)*
- (2) Each Director has 1 (one) vote on a matter before the Board in terms of section 73(5)(c) except that:
  - (2.1) a Director whose ineligibility to serve as a Director has been determined in terms of this Memorandum of Incorporation, shall not have a vote in respect of that matter in terms of section 71(3);
  - (2.2) a Director who has been suspended in terms of section 70(2) shall not have a vote on any matter before the Board;
  - (2.3) a Director who has a personal financial interest in respect of a matter to be considered by the Board or who knows that a related person has a personal financial interest in the matter in terms of section 75(4) or 75(5), shall not have a vote in respect of that matter in terms of section 75(5)(f)(ii).
- (3) Every resolution of Directors is either:
  - (3.1) an ordinary resolution in terms of the Companies Act (section 65(1)); or
  - (3.2) a special resolution in terms of the Companies Act, as required in terms of the Companies act or as required in terms of this Memorandum of Incorporation. *Section 65(1) read with section 65(9), (11) and (12).*

- (4) The passing of an Ordinary Board Resolution is to be subject to the approval of at least 51% (fifty one percent) or more of the vote cast by all Directors present in person or represented by proxy, at the General Meeting convened to approve such Resolution and shall be subject to a minimum notice period of 10 (ten) business days.
- (5) The passing of a Special Board Resolution is to be subject to the approval of at least 61% (sixty one percent) or more of the votes cast by all Directors present in person, or represented by proxy, at the General Meeting or the Annual General Meeting convened to approve such resolution and shall be subject to a minimum notice period of 10 (ten) business days
- (6) A majority of the votes of the Directors present and entitled to exercise and exercising their vote on a matter is sufficient to approve a Board Resolution, provided that there is at least a quorum of Directors present and so exercising their votes on a matter.
- (7) An abstention from Voting shall not be counted as an exercise of a vote, and shall in terms of section 73(5)(d) be disregarded for purposes of calculating whether or not a majority has been obtained.
- (8) Where the vote is tied, the Chairman of the Board Meeting shall in the event of such a tie, have a second or casting vote. *Section 73(5)(e)(i)*
- (9) The vote of any person whose election as a Director, including as an alternate Director is a nullity in terms of section 66(6), or who ceases to be a Director in terms of section 70, shall not with effect from the time that vote is cast be counted towards any vote of Directors.
- (10) A Director unable to attend a Board or Board Committee Meeting may, notwithstanding that this Director has an alternate, authorise any other Director to vote for him at that Meeting, and in the event that the Director so authorised shall have a vote for each Director by whom he is so authorised in addition to his own vote. If both the Directors so authorised and an alternate of the Director who granted the authority, are present at the Meeting, the alternate shall not be entitled to vote in the place of the absent Director. Authority in terms of this clause must be in writing and must be handed to the person presiding at the Meeting at which it is to be used.

- (11) A Resolution that could be voted on at a Board Meeting other than a Board Resolution that the Company voluntarily begin Business Rescue Proceedings and place the Company under supervision in terms of section 129(1), may instead of being voted on at a Meeting be:
- (11.1) submitted by the Directors proposing the Resolution for consideration to each Director in terms of section 74(1); and
  - (11.2) voted on in writing by Directors entitled to exercise Voting rights on that matter within 10 (ten) business days after the Resolution was submitted to them.
- (12) A Resolution will have been adopted as a Board Resolution if it has been supported in writing by the requisite majority of the Directors in person or their alternates who are entitled to exercise Voting rights on the Resolution proposed, and, if so adopted, such a Resolution will have the same effect as if it had been adopted at a quorate Board Meeting. *Section 74(1) and section 74(2)*
- (13) A Round-Robin Resolution of Directors shall be deemed to have been passed on the date specified in the Resolution as the effective date of the Resolution provided that the effective date is not a date earlier than the date the Resolution was submitted to Directors for their consideration and, if deemed fit, adoption or, failing any such effective date being specified in the Resolution, shall be deemed to have been passed on the date on which the Resolution was approved in writing by the last of the Directors or their alternates entitled to do so.
- (14) Within 10 (ten) business days after the adoption or failing of a Round-Robin Resolution, the Company shall:
- (14.1) deliver to each Director a copy of the Resolution proposed, accompanied by a statement describing the results of the vote; and
  - (14.2) insert a copy of the Resolution and statement in the minute book of the Company.

## **2.10 Directors acting other than at Meeting**

- (1) A decision that could be voted on at a Meeting of the Board of the Company may instead be adopted by written consent of a majority of the Directors, given in person or by electronic communication, provided that each Director has received notice of the matter to be decided. *Section 74(1)*

- (2) A decision made in the manner in terms of this Article is of the same effect as if it had been approved by Voting at a Meeting. *Section 74(2)*

## **2.11 Register of Directors**

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) must establish and maintain a record of its Directors, including all the details about each Director (including that Director's email address) required in terms of and for the period stipulated in the Act and the Companies Regulations in a register of Directors in terms of section 24(3)(b), section 24(5) and regulation 23.
- (2) For purposes of the Act and in relation to the register of Directors required to be kept by the Company in terms of section 24(3)(b), a Director is defined in section 1 to mean:
  - (2.1) a member of the Board, being a person previously appointed in terms of the Companies Act 1973 or elected as a Director of the Company in terms of the Act;
  - (2.2) an alternate Director for a member of the Board;
  - (2.3) any person, if any, occupying the position of Director or alternate Director but by whatever name designated,

and accordingly, the prescribed details of each such person is required to be included by the Company in the register of Directors of the Company.

## **2.12 Directors' Remuneration**

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) shall not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless of 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:
  - (1.1) If the Directors appoint one of the ex-officio Directors to execute the function of Managing Director.
  - (1.2) as reasonable remuneration for goods delivered or services rendered to, or at the direction of the Company; or payment of, or reimbursement for, expenses incurred to advance a stated object of the Company, and to enable it to achieve its objectives;

- (1.3) 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;
  - (1.4) 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
  - (1.5) in respect of any legal obligation binding on the Company. *Item 1(3) of Schedule 1 of the Act and section 122(b) of Act 3 of 2011*
- (2) In the event that Fire Fighting Equipment Traders Association - FFETA (NPC) qualifies as Public Benefit Organisation, the Commissioner may, for the purposes of the Income Tax Act, approve the Company as a Public Benefit Organisation subject to the Commissioner been satisfied that:
  - (2.1) the Commissioner was not knowingly a party to, or does not knowingly permit, or has not knowingly permitted, itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under this Act or any other Act administered by the Commissioner (*section 30(3)(c) of the Income Tax Act*);
  - (2.2) Fire Fighting Equipment Traders Association - FFETA (NPC) has not and will not pay any remuneration, as defined in the Fourth Schedule of the Income Tax Act, to any employee, office bearer or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects. The Board of Directors have the authority to pay a market related salary to the Managing Director (*section 30(3)(d) of the Income Tax Act*);
  - (2.3) Fire Fighting Equipment Traders Association - FFETA (NPC) complies with such reporting requirements as may be determined by the Commissioner (*section 30(3)(e) of the Income Tax Act*);
  - (2.4) the Commissioner is satisfied that, in the case of any Public Benefit Organisation which provides funds to any association of persons contemplated in paragraph 10(iii) of Part I of the Ninth Schedule, has taken reasonable steps to ensure that the funds are utilised for the purpose for which it has been provided;



- (2.5) Fire Fighting Equipment Traders Association - FFETA (NPC) does not participate in any tax-avoidance schemes, and is not party to or permit itself to be used for any transaction, operation or scheme, the sole or main purpose of which is or was to reduce, postpone or avoid any tax, duty or levy which would otherwise have been or would have become payable by any person under the Act or under any other Act administered by the Commissioner. These taxes, duties or levies include, for example, income tax (including capital gains tax), value-added tax, transfer duty, skills development levies and employees' tax (*section 30(3)(f) of the Income Tax Act*);
- (2.6) Fire Fighting Equipment Traders Association - FFETA (NPC) has, within such period as the Commissioner may determine, been registered in terms of section 13(5) of the Non-profit Organisations Act, Act 71 of 1997, and complied with any other requirements imposed in terms of that Act, unless the Commissioner in consultation with the Director of Non-profit Organisation designated in terms of section 8 of the Non-profit Organisations Act, 1997, on good cause shown, otherwise directs (*section 30(3)(g) of the Income Tax Act*); and
- (2.7) has not and will not use its resources directly or indirectly to support, advance or oppose any political party (*section 30(3)(h) of the Income Tax Act*)

### **2.13 Financial Assistance**

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) is prohibited from providing a loan to, securing 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. *Item 5(3) of Schedule 1*
- (2) This Memorandum of Incorporation does not limit, restrict or qualify the said financial assistance, loan or securing a debt or obligation if it is in the ordinary course of the Company's business and for fair value; constitutes an accountable advance to meet legal expenses in relation to a matter concerning the Company or anticipated expenses to be incurred by the person on behalf of the Company, is to defray the person's expenses for removal at the Company's request; or is in terms of an employee benefit scheme generally available to all employees or a specific class of employees. *Item 5(4) of Schedule 1 of the Act and section 122(a) of Act 3 of 2011*

## 2.14 Directors' Personal Financial Interests

- (1) No Director may directly or indirectly have any personal or private interest in the Company and the Company is prohibited in terms of this Memorandum of Incorporation from having a share or other interest in any business, profession or occupation which is carried on by its Directors.

## 2.15 Standards of Directors' Conduct

- (1) In this clause, Director includes alternate Director and a Prescribed Officer or a person who is a member of a Committee of a Board of the Company or of the Audit Committee (if applicable).

*Section 76(1)(a)(b)*

- (2) A Director of the Company shall not use the position of Director, or any information obtained while acting in the capacity of a Director to gain an advantage for the Director or for another person other than the Company or a wholly-owned subsidiary of the Company or to knowingly cause harm to the Company or a subsidiary of the Company and communicate to the Board at the earliest practicable opportunity any information that comes to the Director's attention, unless the Director reasonably believes that the information is immaterial to the Company or generally available to the public, or known to the other Directors; or is bound not to disclose that information by a legal or ethical obligation of confidentiality. *Section 76(2)(a)(i)(ii) and section 76(2)(b)(i)(ii)*

- (3) A Director of the Company shall exercise the powers and perform the functions of Director in good faith and for a proper purpose, in the best interests of the Company and with the degree of care, skill and diligence that may reasonably be expected of a person, carrying out the same functions in relation to the Company as those carried out by that Director, and having the general knowledge, skill and experience of that Director. *Section 76(3)(a)(b) and section 76(3)(c)(i)(ii)*

- (4) In respect of any particular matter arising in the exercise of the powers or the performance of the functions of Director in terms of in the best interest of the Company and with the necessary degree of care, skill and diligence of that Director:

(4.1) the Director shall take reasonably diligent steps to become informed about the matter;

(4.2) the Director has no material personal financial interest in the subject matter of the decision, and has no reasonable basis to know that any related person has a personal financial interest in the matter; or

(4.3) the Director shall disclose any personal financial interest in advance to either the Board, with regard to that matter, and the Director has a rational basis for believing and shall believe, that the decision was in the best interests of the Company and is entitled to rely on:

(4.3.1) the performance by 1 (one) or more employees of the Company whom the Director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports or statements provided;

(4.3.2) legal counsel, accountants or other professional persons retained by the Company, the Board or a Committee as to matters involving skills or expertise that the Director reasonably believes are matters within the particular person's professional or expert competence or as to which the particular person merits confidence.

*Section 76(4)(a)(i)-(iii), section 76(4)(b)(i)(ii), section 76(5)(a), section 76(5)(b)(i)(ii) and section 76(5)(c)*

## **2.16 Indemnification and Directors' Insurance**

(1) In terms of the Act and this Memorandum of Incorporation the authority of the Company to purchase market related insurance to protect the Company or a Director, as contemplated in section 78(7) in the Act, is not limited, restricted or extended by this Memorandum of Incorporation, giving authority to the Company to purchase insurance to protect a Director against any liability or expenses for which the Company is permitted to indemnify a Director or the Company against any contingency including, but not limited, to any expenses that the Company is permitted to advance or for which the Company is permitted to indemnify a Director.

Fire Fighting Equipment Traders Association - FFETA (NPC) may purchase insurance to protect the Company or a Director as set out in section 78(7) of the Act, and the power of the Company in this regard is not limited, restricted or extended by this Memorandum of Incorporation.

(2) Fire Fighting Equipment Traders Association - FFETA (NPC) shall be entitled to claim restitution from a Director of the Company or of a related Company for any money paid directly or indirectly by the Company to or on behalf of that Director, in any manner inconsistent with this clause of this Memorandum of Incorporation. *Section 78(8)*

(3) Fire Fighting Equipment Traders Association - FFETA (NPC) is prohibited from indemnifying a Director, a Prescribed Officer, a person who is a member of a Board Committee or of the Audit Committee (if applicable) of the Company, irrespective of whether or not the person is also a member of the Company's Board in respect of:

- (3.1) any fine that may be imposed on a Director of the Company or on a Director of a related company, as a consequence of that Director having been convicted of an offence;
- (3.2) a duty contemplated in section 75 relating to the disclosure requirements in terms of the Director's personal financial interests;
- (3.3) a duty contemplated in section 76 relating to the standards of the Director's conduct;
- (3.4) any legal consequence arising from an act or omission which constitutes wilful misconduct or wilful breach of trust on the part of the Director;
- (3.5) liability of Directors and Prescribed Officers is contemplated in section 77(3) relating to the following:
  - (3.5.1) acted in the name of the Company, signed anything on behalf of the Company or purported to bind the Company or authorise a taking of any action by or on behalf of the Company, despite knowing that the Director lacked the authority to do so;
  - (3.5.2) consented to the carrying on of the Company's business despite knowing that it was being conducted in a manner prohibited by section 22(1), in terms of reckless trading;
  - (3.5.3) been a party to an act or omission by the Company despite knowing that the act or omission was calculated to defraud a creditor or employee of the Company, or had another fraudulent purpose. *Section 78(2)(a)(b), section 78(6) and section 77(3)(a)(b)(c)*

(4)

## ARTICLE 3 – TRANSPARENCY, ACCOUNTABILITY AND INTEGRITY OF THE COMPANY

### 3.1 Access to the Company's Records and Financial Statements

- (1) No person, other than a Director, shall have any right to inspect any accounting records or document of the Company, except the right to do so as conferred by the Companies Act or as authorised by the Board.

Every Director of the Company has the right to inspect and copy:

- (1.1) this Memorandum of Incorporation, any amendments to it and Company Rules (if applicable);
- (1.2) Annual Financial Statements;
- (1.3) notice and minutes of General Meetings;
- (1.4) reports presented at General Meetings;
- (1.5) records of Directors and past Directors.

The accounting records shall be kept at or be accessible from its Registered Office. The accounting records shall be open to inspection by any of the Directors at any time.

The Board may from time to time in its discretion, grant any person, on such terms and subject to such conditions and for such period(s) as the Board may from time to time determine in writing, the right to access (inspect and/or copy) any information pertaining to the Company, but no such right if conferred may negate or diminish any mandatory protection of any record, as set out in Part 3 of the Promotion of Access to Information Act, No.2 of 2000, as amended, provided further that the confidential information of the Company is adequately safeguarded and protected.

*Section 24(5), section 26(1)(2)(3), section 50(3)(b) and Regulation 23*

### 3.2 Financial Year End of the Company

- (1) The Company's financial year which is its annual accounting period, ends on a date set out in the Company's Notice of Incorporation, subject to any change made in terms of this sub-article of this Memorandum of Incorporation.

The first financial year of the Company begins on the date that the incorporation of the Company is registered, as stated in its registration certificate, and ends on the date set out in the Notice of Incorporation, which may not be more than 15 (fifteen) months after the date that the Incorporation of the Company is registered.

The second and each subsequent financial year of the Company begins when the preceding financial year ends; and ends on the first anniversary of the date that the incorporation of the Company is registered, unless the financial year end has been changed in terms of this sub-article of this Memorandum of Incorporation. *Section 27(1), section 27(2)(a)(b), section 27(3)(a)(b) and section 27(6)*

- (2) The financial year end of the Company, or any changes to the financial year end, shall be such period or adjusted period as the Directors by Ordinary Resolution from time to time approve. The Board, may, with the prior approval of Directors by Ordinary Resolution, change the financial year of the Company in terms of section 27(4). *Section 27(4)*
- (3) The Board of the Company may change its financial year end at any time, by filing a notice of that change by filing Form CoR 25, but the Company is prohibited in terms of this Memorandum of Incorporation to do so more than once during any financial year, the newly established financial year end shall be later than the date on which the notice is filed, and the date as changed shall not result in a financial year ending more than 15 (fifteen) months after the end of the preceding financial year. *Section 27(4)(a)(b)*

### **3.3 Accounting Records of the Company**

- (1) In terms of the Act and this Memorandum of Incorporation the Company shall keep accurate and complete accounting records in 1 (one) of the official languages of the Republic of South Africa, as necessary to provide an adequate information base sufficient to enable the Company to satisfy all reporting requirements applicable to it, as set out in this sub-article, and to provide for the compilation of Financial Statements.

Fire Fighting Equipment Traders Association - FFETA (NPC) shall maintain the necessary Accounting Records in accordance with section 28 of the Companies Act. *Section 28, section 28(1)(a) and Regulation 25(2)(a)(b)*

- (2) The Accounting Records shall include a record of any property held by the Company in a fiduciary capacity, or in any capacity or manner contemplated in section 65(2) of the Consumer Protection Act, 2008 (Act No. 68 of 2008) *Regulation 25(3)(b)(i)(ii)*

### 3.4 Financial Statements and Financial Year

- (1) The Company's Financial Statements, including any Annual Financial Statements, shall satisfy the financial reporting standards as to form and content, present fairly the state of affairs and business of the Company, show the Company's assets, liabilities and equity, as well as its income and expenses, set out the date on which the statements were published, and the accounting period to which the statements apply, and bear, on the first page of the statements, a prominent notice indicating whether the statements have been audited in compliance with any applicable requirements of this Act, if not audited, have been independently reviewed in compliance with any applicable requirements of this Act, or have not been audited or independently reviewed, and the name, and professional designation, if any, of the individual who prepared, or supervised the preparation of, those statements. *Section 29(1)(a)–(d), section 29(1)(e)(i)(aa)(bb)(cc) and section 29(i)(e)(ii)*
- (2) Any Financial Statements prepared by the Company, including any Annual Financial Statements of the Company in terms of Article: Transparency, Accountability and Integrity – Annual Financial Statements of this Memorandum of Incorporation, shall not be false or misleading in any material respect, or incomplete in any material particular, subject only to this sub-article. *Section 29(2)(a)(b)*
- (3) Fire Fighting Equipment Traders Association - FFETA (NPC) is not limited or restricted by this Memorandum of Incorporation to provide any person with a summary of any particular Financial Statements, but any such summary shall comply with any prescribed requirements, and the first page of the summary shall bear a prominent notice stating that it is a summary of particular Financial Statements prepared by the Company, and setting out the date of those statements, stating whether the Financial Statements that it summarises have been audited, independently reviewed, or are unaudited, in terms of clause 1 of this sub-article, stating the name, and professional designation, if any, of the individual who prepared, or supervised the preparation of, the Financial Statements that it summarises, and setting out the steps required to obtain a copy of the Financial Statements that it summarises. *Section 29(3)(a) and section 29(3)(b)(i)–(iv)*
- (4) This Memorandum of Incorporation permits the Company the flexibility to have its Financial Statements internally or independently compiled and reported. In the event that the statements are independently compiled and reported, it may be prepared by an independent accounting

professional, on the basis of financial records provided by the Company, and in accordance with any relevant financial reporting standards. *Regulation 26(1)(e)(i)(ii)(iii) and Regulation 27(1)*

(5) Any Financial Statements in terms of this sub-article and Article: Transparency, Accountability and Integrity – Accounting Records of this Memorandum of Incorporation shall comply with the applicable standards for the category of the Company as follows:

(5.1) where the Company's Public Interest Score for a particular financial year is at least 350 (three hundred and fifty) 1 (one) of IFRS or IFRS for SMEs provided that the Company meets the scoping requirements outlined in the IFRS for SMEs;

(5.2) where the Company's Public Interest Score for a particular financial year is at least 100 (one hundred) but less than 350 (three hundred and fifty) 1 (one) of IFRS or IFRS for SMEs provided that the Company meets the scoping requirements outlined in the IFRS for SMEs;

(5.3) where the Company's Public Interest Score for a particular financial year is less than 100 (one hundred) and whose statements are internally compiled, the Financial Reporting Standards as determined by the Company for as long as no Financial Reporting Standards is prescribed.

"IFRS" means the International Financial Reporting Standards as issued from time to time by the International Accounting Standards Board or its successor body, and

"IFRS for SMEs" means the International Financial Reporting Standards for Small and Medium Enterprises, as issued from time to time by the International Accounting Standards Board or its successor body. *Regulation 27(4)(5)*

(6) The Directors shall, in accordance with sections 30 and 31 of the Companies Act, cause to be prepared and laid before the Company at its Annual General Meeting its audited or independently reviewed Financial Statements, subject to clause 3 of Article: Transparency, Accountability and Integrity – Annual Financial Statements, not less than 10 (ten) business days before the date of any Annual General Meeting, a summarised form of the Financial Statements to be presented at such Meeting and directions for obtaining a copy of the complete Financial Statements for the preceding financial year shall be sent to every Director, subject and in accordance with the provisions of the Companies Act and this Memorandum of Incorporation. Nothing contained in this clause, shall



impose a duty on the Directors to send copies of such documents to any person whose address is not known to the Company.

If a Director requests a copy of the Annual Financial Statements, the Company shall make same available to such Director free of charge.

### 3.5 Annual Financial Statements

The Annual Financial Statements of the Company are not required to be audited in terms of this Memorandum, and shall only be so audited for a particular financial year, if specifically so determined by the Board, or if so required in terms of the Companies Regulations, 2011. These annual financial statements will:

- 3.5.1 include an Auditor's report or an Independent Reviewer's report whichever is applicable at the time as authorised by the Board of Directors;
- 3.5.2 include a report by the Directors with respect to the state of affairs, the business and profit or loss of the Company, or of the group of companies, if the Company is part of a group, including any matter material for the members to appreciate the Company's state of affairs;
- 3.5.3 any other prescribed information;
- 3.5.4 be approved by the Board and signed by an authorised Director; and
- 3.5.5 be presented to the Annual General Meeting after the statements have been approved by the Board.

### 3.6 Annual Return

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) shall file its annual return in Form CoR 30.1 together with the prescribed fee set out in Table CR 2B, unless exempt from such payment in terms of Regulation 30(8), within 30 (thirty) business days after each anniversary of its date of incorporation, in the case of a Company that was incorporated in the Republic of South Africa, in compliance with section 33(1) of the Act read with Regulation 30, or the date that its registration was transferred to the Republic, in the case of a domesticated Company, including in that return a copy of its Annual Financial Statements, if it is required to have such statements audited in terms of Article: Transparency, Accountability and Integrity – Annual Financial Statements (section 30(2) and (7) or the Regulations of the Act). *Section 33(1)(a)(b) and Regulation 30(1)(a)*
- (2) In the event that the Company is required in terms of this Memorandum of Incorporation and Regulation 28 to have its Annual Financial Statements audited, it must file a copy of the latest approved audited Financial Statements on the date that it files its annual return. *Regulation 30(2)*

- (3) In the event that the Company is not required in terms of this Memorandum of Incorporation or Regulation 28 to have its Annual Financial Statements audited, it may file a copy of its reviewed Financial Statements on the date that it files its annual return. *Regulation 30(3)*
- (4) In the event that the Company has been inactive during the financial year preceding the date on which its annual return becomes due in terms of clause 1 of this sub-article, the Company may apply to the Commission for exemption from payment of the prescribed fee in terms of clause 1 of this sub-article, provided that the application is supported by the Financial Statements indicating that the Company had in fact no turnover during that financial year. *Regulation 30(8)*

## ARTICLE 4 – ENHANCED ACCOUNTABILITY AND TRANSPARENCY

### 4.1 Appointment of Company Secretary

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) is a Non-Profit Company and although it is not required by the Companies Act to comply with the extended accountability requirements in terms of Chapter 3 of the Act, this Company elects to comply with the extended accountability and transparency requirements of Chapter 3 of the Companies Act and the Companies Regulations. *Section 34(1) and section 34(2), Part A, Chapter 3*
- (2) This Memorandum of Incorporation requires the Company to appoint a Company Secretary.
- (3) Provided that no person who is ineligible (other than by virtue of being a juristic person) or disqualified from serving as a Director of the Company in terms of section 69(7) or (8) shall be appointed as the Company Secretary. *Section 34(2), section 84(1)(c)(ii), sections 86-89, section 94 and Part A, Chapter 3*

### 4.2 Registration of Company Secretary

- (1) In the event that the Company appoints a Company Secretary, the Company shall in accordance with section 85, establish or cause to be established and maintain a record or Register of its Company Secretaries, including, in respect of each person appointed as Company Secretary of the Company, the name, including any former name, of each such person and the date of every such appointment.
- (2) Within 10 (ten) business days after making the abovesaid appointment or after the termination of service of such an appointment, the Company shall file a notice of the appointment or termination. *Section 85(3)*
- (3) The Incorporators of the Company may file a notice of the appointment of the Company's first Company Secretary as part of the Company's Notice of Incorporation. *Section 85(4)*

### 4.3 Company Secretary

- (1) Every Company Secretary shall have the requisite knowledge of, or experience with the relevant laws and be a permanent resident of the Republic of South Africa, and shall remain so while serving as a Company Secretary of the Company. *Section 86(2)(a)(b)*

- (2) The first Company Secretary of the Company shall be appointed by the Directors of the Company.

*Section 86(3A)(b)(i)*

- (3) Within 60 (sixty) business days after a vacancy arises in the office of Company Secretary, the Board shall fill the vacancy by appointing a person whom the Directors consider to have the requisite knowledge and experience. *Section 86(4)*

- (4) Without in any way limiting or excluding any other grounds for removing a person as the Company Secretary, any person who is the Company Secretary for the time being who:

(4.1) does not, in the reasonable opinion of the Board, have the requisite knowledge of, or experience with, relevant laws in terms of section 86(2)(a) of the Act; or

(4.2) ceases to be a permanent resident of the Republic of South Africa, in terms of section 86(2)(b) of the Act; or

(4.3) ceases to be a person eligible or qualified to serve as a Director of the Company as contemplated in section 84(5) of the Act,

shall cease to be the Company Secretary on delivery to him of a notice by the Board terminating his appointment, which notice from the Board shall be given within 10 (ten) business days of the Board becoming aware of any of the circumstances in this sub-article and sections 84 and 86 of the Act.

*Section 84(5) and section 86(2)(a)(b)*

#### **4.4 Juristic Person or Partnership as Company Secretary**

- (1) A juristic person or partnership may be appointed to hold the office of Company Secretary of the Company subject to the provision that:

(1.1) every employee of that juristic person who provides Company Secretary services or partner and employee of that partnership, shall not be disqualified to serve as a Director or disqualified to be appointed as a Company Secretary, and

(1.2) at least 1 (one) employee of that juristic person, or 1 (one) partner or employee of that partnership, shall be appointed as Company Secretary either by the Incorporators of the Company or the Directors of the Company. *Section 69(8), section 87(1)(a)(b), section 84(5), and section 86*

- (2) If at any time a juristic person or partnership holds office as Company Secretary of the Company, the juristic person or partnership shall immediately notify the Directors of the Company if the juristic person or partnership has been disqualified to serve as a Director and may not continue to serve the Company in the capacity of Company Secretary and is regarded to have resigned as Company Secretary upon giving that notice to the Company. Any action taken by the juristic person or partnership in performance of its functions as Company Secretary is not invalidated merely because the juristic person or partnership had ceased to satisfy the requirements of the Act at the time of that action. *Section 87(3)(a) and section 87(3)(c)*

#### **4.5 Duties of Company Secretary**

- (1) A Company Secretary shall be accountable to the Company's Board. *Section 88(1)*
- (2) A Company Secretary's duties include, but are not restricted to:
- (2.1) providing the Directors of the Company collectively and individually with guidance as to their duties, responsibilities and powers;
  - (2.2) making the Directors aware of any law relevant to or affecting the Company;
  - (2.3) reporting to the Company's Board any failure on the part of the Company or a Director to comply with this Memorandum of Incorporation or Rules (if applicable) of the Company or the Act;
  - (2.4) ensuring that minutes of all Board Meetings and the Meetings of any Committees of the Directors, are properly recorded in accordance with the Act;
  - (2.5) certifying in the Company's Annual Financial Statements whether the Company has filed required returns and notices in terms of the Act, and whether all such returns and notices appear to be true, correct and up to date;
  - (2.6) ensuring that a copy of the Company's Annual Financial Statements is sent, in accordance with the Act, to every person who is entitled to it; and

- (2.7) carrying out the Company's compliance with the requirements of Part C of Chapter 2 and Chapter 3 of the Act should the Company so require in terms of the Act. *Section 33(3) and section 88(2)(a)-(g)*

#### **4.6 Resignation or Removal of Company Secretary**

- (1) The Company Secretary may resign from office by giving the Company 1 (one) month's written notice. In the event that the Company Secretary resigns from office by giving the Company less than 1 (one) month's written notice, the Company Secretary may then only resign with Board approval. *Section 89(1)(a)(b)*
- (2) In the event that the Company Secretary is removed from office by the Board, the Company shall include a statement in its Annual Financial Statements, relating to that financial year, setting out the Company Secretary's contention as to the circumstances that resulted in the removal, and shall be included in the Directors' Report in the Company's Annual Financial Statements. *Section 89(2) and section 89(4)*
- (3) If the office of Company Secretary becomes vacant for any reason, the Company shall fill that vacancy by the appointment of another person as Company Secretary. *Section 86(1)*

## ARTICLE 5 – FUNDAMENTAL TRANSACTIONS

### 5.1 Disposals, Mergers and Amalgamations

- (1) Fire Fighting Equipment Traders Association - FFETA (NPC) is prohibited from amalgamating or merging with, or converting to a Profit Company, or disposing 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. *Item 2(1)(a)(b) of Schedule 1*
- (2) Any proposal to dispose of all or the greater part of its assets or undertaking or amalgamate or merge with another Non-Profit Company shall be submitted to the Director for approval. *Item 2(2)(a)(b) of Schedule 1*
- (3) A notice of a Board Meeting to consider a Resolution to approve a disposal shall be delivered at least 10 (ten) business days before the date on which the Meeting is to begin and in the prescribed manner, to each Director of the Company and include a written summary of the terms of the transaction to be considered at the Meeting. *Section 112(3)(a)(b)*
- (4) The Resolution shall be effective only to the extent that it authorises a specific transaction. *Section 112(5) of the Act and section 69(b) of Act 3 of 2011*
- (5) A proposed transaction shall be approved by a Special Resolution adopted by a majority vote by the Directors of the Company's holding Company if the holding Company is a Company or an external Company; the proposed transaction concerns a disposal of all or the greater part of the assets or undertaking of the subsidiary; and having regard to the consolidated Financial Statements of the holding Company, the disposal by the subsidiary constitutes a disposal of all or the greater part of the assets or undertaking of the holding Company. *Section 115(2)(a)(b) of the Act and section 71(b)(c) of Act 3 of 2011*
- (6) Any part of the undertaking or assets of the Company to be disposed of shall be fairly valued at the date of the proposal. *Section 112(4)*
- (7) After a Resolution approving an amalgamation or merger has been adopted by each Company that is a party to the agreement, each of the amalgamating or merging Companies shall cause a notice of the amalgamation or merger to be given in the prescribed manner and form to every known creditor of that Company but does not apply to a Company engaged in Business Rescue

Proceedings, in respect of any transaction pursuant to or contemplated in the Company's Business Rescue Plan. *Section 116(1)(a) and section 116(2)*

- (8) A notice of amalgamation or merger shall be filed with the Commission and shall include confirmation that the amalgamation or merger – has satisfied the requirements of the Companies Act; has been approved in terms of the Companies Act, if so required by that Act; has been granted the consent of the Minister of Finance in terms of section 54 of the Banks Act, if so required by that Act and is not subject to further approval by any regulatory authority; or any unfilled conditions imposed by or in terms of any law administered by a regulatory authority; and the Memorandum of Incorporation of any Company newly incorporated in terms of the agreement. *Section 116(4)(a)(b)*
- (9) An amalgamation or merger takes effect in accordance with, and subject to any conditions set out in the amalgamation or merger agreement; does not affect any existing liability of a party to the agreement, or of a Director of any of the amalgamating or merging Companies, to be prosecuted in terms of any applicable law; civil, criminal or administrative action or proceeding pending by or against an amalgamating or merging Company, and any such proceeding may continue to be prosecuted by or against any amalgamated or merged Company; or conviction against, or ruling, order or judgment in favour of or against, an amalgamating or merging Company, and any such ruling, order or judgment may be enforced by or against any amalgamated or merged Company. *Section 116(6)(a)(b) of the Act and section 72(c) of Act 3 of 2011*
- (10) When an amalgamation or merger agreement has been implemented the property of each amalgamating and merging Company becomes the property of the newly amalgamated or surviving merged Company or Companies; and each newly amalgamated, or surviving merged Company is liable for all the obligations of every amalgamating or merging Company, in accordance with the provisions of the amalgamation or merger agreement, or any other relevant agreement, but subject to section 116(7)(a) and (b) substituted by section 72(d) of Act 3 of 2011.
- (11) If, as a consequence of an amalgamation or merger, any property that is registered in terms of any public regulation is to be transferred from an amalgamating or merging Company to an amalgamated or merged Company, a copy of the amalgamation or merger agreement, together with a copy of the filed notice of amalgamation or merger, constitutes sufficient evidence for the keeper of the relevant property registry to effect a transfer of the registration of that property. *Section 116(8)*



- (12) If, with respect to a transaction involving a Company that is regulated in terms of the Banks Act, there is a conflict between this sub-article and a provision of section 54 of that Act, the provisions of that Act prevail. *Section 116(9)*

## ARTICLE 6 – DISSOLUTION AND DISTRIBUTION OF NET VALUE OF COMPANY

### 6.1 Winding-Up or Dissolution

- (1) Despite any provision in any law or agreement to the contrary, upon the winding-up or dissolution of the Company, 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 the entire net value of the Company shall be distributed to 1 (one) or more Non-Profit Companies, registered external Non-Profit Companies carrying on activities within the Republic of South Africa, voluntary associations or non-profit trusts having objects similar to its main object; and as determined in terms of the Company's Memorandum of Incorporation by its Directors, at or immediately before the time of its dissolution, failing such determination, in terms of the provisions of the Companies Act 2008 or by order of Court. *Item 1(4)(a)(b) of Schedule 1*
  
- (2) Any Resolution for the winding-up or deregistration of the Company shall be approved by the Commissioner of the South African Revenue Service.

On dissolution or liquidation the excess funds and remaining assets of the Company shall be transferred to 1 (one) or more of the following:

- (2.1) a similar organisation incorporated or established in the Republic of South Africa which has been approved as a Public Benefit Organisation in terms of section 30(3) of the Income Tax Act (*section 30(3)(b)(iii)(aa) of the Income Tax Act*);
  
- (2.2) an organisation established under any law which is exempt from Tax in terms of section 10(1)(cA)(i) of the Income Tax Act whose sole or principal object is the carrying on of an approved public benefit activity (*section 30(3)(b)(iii)(bb) of the Income Tax Act*);
  
- (2.3) a department of State of Administration in the National, Provincial or Local sphere of Government of South Africa, contemplated in section 10(1)(a) of the Income Tax Act which is required to use those assets solely for purposes of carrying on 1 (one) or more public benefit activities (*section 30(3)(b)(iii)(cc) of the Income Tax Act*).

## ARTICLE 7 – COMPANY SIGNATURE

### 7.1 Company Signature

- (1) All cheques, promissory notes, drafts, bills of exchange, and other negotiable instruments, shall be made, signed, drawn, accepted and endorsed, or otherwise executed by a person or persons from time to time authorised by a Resolution of the Board of Directors.
  
- (2) The signature to any notice given by the Company may be:
  - (2.1) written or printed, or partly written and partly printed (section 6(12) of the Act);
  
  - (2.2) effected in any manner provided for in the Electronic Communications and Transactions Act (ECTA). *Section 6(12)(a) of the Act and section 13 of the ECTA*

## **SCHEDULE 1 – NUMBER OF DIRECTORS**

Fire Fighting Equipment Traders Association - FFETA (NPC) has the prescribed minimum number of Directors, being 3 (three) at all times.

Fire Fighting Equipment Traders Association - FFETA (NPC) has 3 (three) Director(s) at the date of adoption of this Memorandum of Incorporation.