

Companies and Intellectual Property Commission

Republic of South Africa

Memorandum of Incorporation

Of

**ANTI - FRAUD RISK INVESTIGATIONS AND COMPLIANCE ACADEMY
(AFRICA TRAINING ACADEMY/AFRICA TA)**

Registration Number: 2018/095537/07

A reference to a section by number refers to the corresponding section of the Companies Act, 2008. Words that are defined in The Companies Act, 2008, bear the same meaning in this Memorandum as in the Act.

Interpretation

In this Agreement and the Recitals, unless clearly inconsistent with or otherwise indicated by the context –

- a. any reference to the singular includes the plural and conversely;
- b. any reference to a gender includes all genders;
- c. any reference to a person shall include natural and juristic persons and references to either Party shall include such Party's successors or permitted assigns; and
- d. any reference to day will refer to a working week day.

Hereafter referred to in the rest of this Memorandum of Incorporation as “the Company”.

The Company is a Profit company with the following objects:

1. to promote and provide training of the Advanced Certificate Fraud Examination (CFE – SAQA NQF7) course;
2. to promote and provide training of the Occupational Certificate Fraud Examination (CFE – QCTO NQF8) course;
3. to provide Continues Professional Education/Continues Professional Development (CPE/CPD) workshops; and
4. to work with stakeholder entities to expand on current services deliverance to help create career opportunities for school leavers and specialisation fields for Certified Fraud Examiners (CFEs).

Adoption of Memorandum of Incorporation

This Memorandum of Incorporation was amended with authorisation from the Board of Directors as required by CoR15.2.

Article 1 – Incorporation and Nature of the Company

1.1 Incorporation

- 1.1.1 The Company has been incorporated as from 26 February 2018 as a private company, as defined in section 8(2)(b) of the Act.
- 1.1.2 The Company was incorporated in accordance with and governed by the alterable provisions of the Companies Act, 2008, subject to the limitations, extensions, variations or substitutions set out in this Memorandum.

1.2 Powers of the Company

- 1.2.1 The Company is not subject to provisions set out in section 15(2)(b) or (c) of the Act, as set out below.
- 1.2.2 The purposes and the powers of the Company are not subject to any restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii) of the Act.

1.3 Memorandum of Incorporation and Company rules

- 1.3.1 This Memorandum of Incorporation of the Company may be altered or amended only in the manner set out in section 16, 17 or 152(6)(b) of the Act, subject to the provisions contemplated in section 16(1)(c) of the Act.
- 1.3.2 The authority of the Company's Board of Directors to make, amend, or repeal any necessary or incidental rules relating to the governance of the Company, as contemplated in sections 15(3) to (5) of the Act is not limited or restricted in any manner by this Memorandum of Incorporation.
- 1.3.3 The Board must publish any necessary or incidental rules, relating to the governance of the Company that were made, amended, or repealed, in terms of sections 15(3) to (5) of the Act, by delivering a copy of those rules to each shareholder by registered mail.
- 1.3.4 The Company must publish a notice of any of the alternations of the Memorandum of Incorporation or the rules, made in terms of section 17(1) of the Act by delivering a copy of those amended rules to each shareholder by registered mail.

1.4 Application of optional provisions of the Companies Act, 2008

- 1.4.1 The Company does not, in terms of section 34(2) of the Act, elect to comply voluntarily with the extended accountability requirements as set out in Chapter 3 of the Companies Act, 2008.
- 1.4.2. The Company does not, in terms of section 118(1)(c)(ii) of the Act, elect to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Companies Act, 2008, and to the Takeover Regulations provided for in that Act.

Article 2 – Securities Of The Company

2.1 Shares

- 2.1.1 The Company is authorised to issue no more than 3000 ordinary par value shares of R1 each, each of which entitles the holder to:
 - 2.1.1.1. vote on any matter to be decided by a vote of shareholders of the company; and
 - 2.1.1.2. participate in any distribution of profit to the shareholders; and
 - 2.1.1.3. share in the distribution of the company's residual value upon its dissolution.

2.2 Pre-emptive Rights

- 2.2.1 The pre-emptive rights of the Company's shareholders to be offered and to subscribe for additional shares, as set out in section 39 of the Act, is subject to the conditions, limitations, and restrictions as set out below.
 - 2.2.1.1. No shareholder may be forced to dispose of his/her shares, other than where a shareholder is also an employee of the company and the company terminates the employment relationship as a result of disciplinary steps taken against the shareholder-employee. In this case, the forced sale provisions shall apply, and may only thereafter dispose of his shares in terms of and after complying with the further provisions hereunder and furthermore only if:
 - 2.2.1.1.1. simultaneously therewith he disposes of a portion of his claims in the same proportion to the total number of his shares sold is to the total number of his shares; provided the shareholder's claims are in proportion to its shareholding; and
 - 2.2.1.1.2. the acquirer, in writing, binds himself to all the terms and conditions of this agreement and undertakes to fully comply therewith as a shareholder.

2.2.2. No shareholder shall be entitled to dispose of any of his shares and his claims in an equivalent proportion to such shares (hereinafter referred to in this clause as “the sale shares and sales claims”) unless such shareholder (hereinafter referred to in this clause as “the seller”) first offers to sell the sale shares and sale claims to the other shareholders (hereinafter referred to in this clause as the “offeree shareholders”) on a pro-rata basis in proportion to their individual shareholding of the issued share capital of the company.

2.3 The Seller’s offer

2.3.1. should be in writing and delivered to the offeree shareholders;

2.3.2. shall be irrevocable and shall remain open for acceptance by any of the offeree shareholders for a period of 30 (thirty) days after receipt (hereinafter referred to in this clause as “the first period”);

2.3.3. shall specify the claims and the number of shares pertaining to the sale shares and sale claims;

2.3.4. shall be accompanied, where applicable, by:

2.3.4.1. a written memorandum of the consideration as well as all the offeree terms and conditions that have been offered to the seller orally; or

2.3.4.2. a true and complete copy of any written offer made to the seller (which sets out the consideration and all offeree terms and conditions of such offer), by any bona fide third party in respect of the sale shares and sale claims which the seller wishes to accept, and which in either case must contain the name of the bona fide third party and in the case where the bona fide third party is an agent, the name of his ultimate principal;

2.3.5. shall, if there is an offer from a bona fide third party, be deemed to be for the consideration and subject to, mutatis mutandis, the terms and conditions set out in the memorandum or written offer referred to in 2.3.4;

2.3.6. shall, if there is no offer from a bona fide third party, state that fact as well as the consideration and full terms and conditions upon which the seller wishes to sell the sale shares and sale claims;

2.3.7. shall be subject to the conditions that –

2.3.7.1. the seller’s offer may be accepted by any of the offeree shareholders only on the basis that all of the sale shares and sale claims offered to the relevant offeree shareholder in this clause are to be purchased as one indivisible transaction;

2.3.7.2. unless the offer referred to in clause 2.3.4 or the seller’s offer referred to in clause 2.3.6 provides to the contrary:

- 2.3.7.2.1. a written cession of the claims offered and accepted, and delivery of the share certificates in respect of all the shares offered to the relevant offeree shareholder and accepted together with transfer forms in respect of all such shares duly completed shall be made to the relevant offeree shareholder within 7 (seven) days after acceptance of the seller's offer;
- 2.3.7.2.2. the consideration referred to in clause 2.3.5 or clause 2.3.6 as the case may be, shall be payable against delivery as set out above;
- 2.3.7.2.3. the consideration shall be in cash and be expressed and payable only in the currency of South Africa;
- 2.3.8. shall not be subject to any offeree terms or conditions, offeree than regulatory approvals that may be required;
- 2.3.9. should the seller be the sole shareholder, the ACFE SA will first be allowed an opportunity to purchase the shares before the shares are offered to any 3rd party.

2.4 Non-acceptance of Seller's offer

- 2.4.1. Should any of the offeree shareholders ("declining offerees") not accept the seller's offer in terms of clause 2.3 in full, the offeree shareholders who have accepted the whole of the relevant offer of sale shares and sale claims ("accepting offerees") made to them in terms of clause 2.3, shall be entitled within 7 (seven) days after the expiry of the first period, to accept the offer in respect of all the sale shares and sale claims offered to the declining offerees ("the declined offer"). This will be at the same price and upon the same terms and conditions, mutatis mutandis, stated in the original offer to the declining offerees, on a pro-rata basis in proportion to their individual shareholding of the issued share capital of the company.
- 2.4.2. This procedure shall be repeated as often as is necessary until all the sale shares and sale claims offered have been acquired by the accepting offerees or until no accepting offeree remains who is willing to accept the whole of the declined offer.
- 2.4.3. Should all the shareholders decline the offer or the accepting offerees not purchase all the sale shares and sale claims offered pursuant to the provisions of pre-emptive rights as stated above, the seller shall be entitled, for a period of 30 (thirty) days thereafter to dispose of all the sale shares and sale claims included in the seller's offer to the bona fide third party whose offer was disclosed in the seller's offer referred to in clause 2.2 or, if the seller's said offer disclosed that there was no bona fide third party offer or in respect of the sale shares and sale claims, then to any third party, provided that in either instance –

- 2.4.3.1. the sale shares and sale claims are disposed of to the third party only at a price and on terms and conditions no more favourable to the purchaser than the price, terms and conditions set out in the seller's offer referred to in clause 2.3;
- 2.4.3.2. the third party enters into a written agreement with the remaining shareholders to be bound by the provisions of this agreement and any offeree existing shareholders' agreement relating to the company; and
- 2.4.3.3. the third party agrees to acquire all the sale shares and sale claims which were offered by the seller in terms of clause 2.3, and provided further that in the case of disposal to a third party whose identity had not yet been disclosed to the offeree shareholders, the seller shall disclose the name of the proposed third party to the offeree shareholders and should the offeree shareholders within 7 (seven) days after the identity of the third party was disclosed, require the seller by written request delivered to the seller to do so, the seller shall be obliged to offer the sale shares and sale claims to the offeree shareholders again in terms of clauses 2.2.1, 2.2.2, and 2.3 provided that the seller's offer shall only remain open for a period of 15 (fifteen) days from the date of delivery of the offer. Should the seller's offer in terms of clause 2.3 not be accepted by the offeree shareholders in respect of all sale shares and sale claims offered, the seller shall be entitled within a period of 30 (thirty) days after the lapse of the aforesaid 15 (fifteen) days to dispose of the sale shares and sale claims to the third party subject to the provision set out in this sub-clause.

2.5 Failure to dispose to third party

- 2.5.1 If all the sale shares and sale claims offered for sale by the seller are not disposed of to the third party within the 30 (thirty) days referred to in clause 2.4.3.3, then the provisions of clauses 2.2.1, 2.2.2, 2.3 and 2.4 shall again apply to the sale shares and sale claims and the seller will not be entitled to dispose of its shares without again having complied with clauses 2.2.1, 2.2.2, and 2.3.

2.6 Acceptance of seller's offer

If the seller's offer in terms of clause 2.2.1 and 2.2.2 is accepted in accordance with the provisions of this clause, the seller hereby irrevocably authorizes the relevant offeree shareholders to sign any share transfer form on the seller's behalf for purposes of effecting due transfer to the offeree of the shares and claims sold against payment of the purchase price.

2.7 Sale of claims

No shareholder may sell or cede his claims or any portion thereof offeree than a sale or transfer thereof with a portion of its shares in accordance with the provisions of this clause 2.2.

2.8 Company's consent to sale of claims

Where the seller disposes of a portion of its claims to any party or offeree entity, in terms of the provisions of this clause or any clause in this agreement, the company consents to the sale and cession of such a portion.

2.8.1. The authority of the company's Board of Directors to authorise the Company to provide financial assistance in relation to the subscription of any option or securities of the Company or a related or inter-related company, as set out in section 44 of the Act is not limited or restricted by this Memorandum of Incorporation.

2.8.2. Securities of the Company are to be issued in either certificated or uncertificated form, as the Board may determine.

2.9 Debt Instruments

2.9.1. The authority of the Company's Board of Directors to authorise the company to issue secured or unsecured debt instruments, as set out in 43(2) of the Act is not limited or restricted by this Memorandum of Incorporation and is subject to the Company's approved Delegation of Authority.

2.9.2. The authority of the Company's Board of Directors to grant special privileges associated with any debt instrument to be issued by the company, as set out in 43(3) of the Act is not limited or restricted by this Memorandum of Incorporation and is subject to the Company's approved Delegation of Authority.

2.10 Registration of beneficial interests

The authority of the Company's Board of Directors to allow the Company's issued securities to be held by, and registered in the name of, own person for the beneficial interest of another person, as set out in section 56(1) of the Act is not limited or restricted by this Memorandum of Incorporation and is subject to the Company's approved Delegation of Authority.

Article 3 – Shareholders

3.1 Shareholder’s right to information

Every person who has beneficial interests in any of the Company’s securities has further rights to information as set out in section 26(1) of the Act.

3.2 Shareholder’s authority to act

3.2.1. If, at any time, there is only one shareholder of the Company, the authority of that shareholder to act without notice or compliance with any other internal formalities, as set out in section 57(2) of the Act, is not limited or restricted by this Memorandum of Incorporation.

3.2.2. If at any time, every shareholder of the Company is also a director of the Company, as contemplated in section 57(4) of the Act, the authority of the shareholder to act without notice or compliance with any other internal formalities, as set out in that section, is not limited or restricted by this Memorandum of Incorporation.

3.3. Representation by concurrent proxies

The right of a shareholder of the Company to appoint persons concurrently as proxies, as set out in section 58(3)(a) of the Act is not limited, restricted or varied by this Memorandum of Incorporation.

3.4. Authority of proxy to delegate

The authority of the shareholder’s proxy to delegate the proxy’s powers to another person, as set out in section 58(3)(b) of the Act is not limited by this Memorandum of Incorporation.

3.5. Requirement to deliver proxy instrument to the Company

The requirement that a shareholder must deliver to the Company a copy of the instrument appointing a proxy before that proxy may exercise the shareholder’s rights at a shareholders meeting, as set out in section 58(3)(c) of the Act is not varied by this Memorandum of Incorporation.

3.6. Deliberative authority of the proxy

The authority of a shareholder's proxy to decide without direction from the shareholder whether to exercise, or abstain from exercising any voting right of the shareholder, as set out in section 58(7) of the Act, is not limited or restricted by this Memorandum of Incorporation.

3.7. Record date for exercise of shareholder rights

If, at any time, the Company's Board of Directors fails to determine a record date, as contemplated in section 59 of the Act, the record date for the relevant matter is as determined in accordance with section 59(3) of the Act.

3.8. Shareholders and Directors

Shareholders shall be entitled to nominate and appoint directors of the company and shall be entitled to remove any such directors appointed and to replace any such directors who are so removed or who cease for any other reason to be directors of the company.

Article 4 – Shareholders Meetings

4.1 Requirement to hold meetings

The Company is not required to hold any shareholders meetings other than those specifically required by the Act.

4.2 Shareholder's right to requisition a meeting

The right of a shareholder to requisition a meeting, as set out in section 61(3) of the Act, may be exercised by the holders of at least 10% of the voting rights entitled to be exercised in relation to the matter to be considered at the meeting, as provided for in that section.

4.3 Location of shareholders meetings

The authority of the Company's Board of Directors to determine the locations of any shareholders meeting, and the authority of the Company to hold such meeting in the Republic or in any foreign country, as set out in section 61(9) of the Act, is not limited or restricted by this Memorandum of Incorporation.

4.4 Notice of shareholders meetings

The minimum number of days for the Company to deliver a notice of a shareholders meeting to shareholders, as required by section 62 of the Act, is limited or restricted as below:

An annual general meeting and a meeting called for the passing of a special resolution shall be called by 21 (twenty-one) clear days' notice in writing at the least, and a meeting of the company other than an annual general meeting or a meeting for the passing of a special resolution, shall be called by 14 (fourteen) clear days' notice in writing at least. In each instance the notice shall specify the place, the date and the hour of the meeting.

4.5 Electronic participation in shareholders meetings

The authority of the Company to conduct a meeting entirely by electronic communication or to provide for participation in a meeting by electronic communication, as set out in section 63(2) of the Act is not limited or restricted by this Memorandum of Incorporation. Nothing contained in this Memorandum will be construed as obliging the shareholders to meet in person or as preventing the holding of meetings of the company by way of conference telephone or any other means by which all participants may be simultaneously heard.

4.6 Quorum and Adjournment of shareholders meetings

4.6.1. The quorum requirements for a shareholders meeting to begin, or for a matter to be considered and the adjournment of shareholders meetings are as set out in section 64 of the Act, subject to the following:

4.6.1.1. The quorum for shareholders' meetings of the company shall be shareholders representing not less than 50% of the then current shareholdings of issued share capital, present in person or by duly authorized representative; provided that if, within 30 minutes after the time appointed for a meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place or, if that day is not a business day, to the next succeeding business day. If at such adjourned meeting, a quorum is not present within 30 minutes from the time appointed for the meeting, the shareholders then present in person or by proxy shall be a quorum, provided that written notice of such adjourned meeting indicating the date, time and place where such adjourned meeting will be held, shall be required to be given to all the shareholders of the company not less than 48 (forty eight) hours before such adjourned meeting is to be held.

4.7 Shareholders General Resolutions

- 4.7.1. In order for resolutions of directors of the company to be of force and effect it must be approved by a majority of the votes of the directors or their alternates present at a meeting.
- 4.7.2. Each of the directors or his alternate appointed by a particular shareholder who is present and who votes on the particular resolution shall have as many votes as the number of shares which the shareholder appointing him holds, divided by the number of directors appointed by that particular shareholder, who are present and who vote on the particular resolution.
- 4.7.3. The chairperson shall not have a second or casting vote.
- 4.7.4. Resolutions of shareholders of the company (other than special resolutions) in order to be of force and effect must be approved by a vote of shareholders holding at least 50% (fifty per cent) of the ordinary issued share capital of the company present at any meeting in person, by a duly authorized representative or by proxy.
- 4.7.5. Resolutions signed in writing by all the directors or shareholders (as the case may be) for the time being shall be as valid and effectual as if passed at a meeting of directors or shareholders. The resolution may consist of several documents each signed by one or more shareholders or directors (or their alternates), as the case may be.
- 4.7.6. In the case of matters requiring urgent resolution or, if for any reason it is impracticable for the directors or shareholders to meet or pass a resolution, proceedings may be conducted by utilising conference telephone facilities, provided that the required quorum is met. A resolution agreed to and subsequently signed by a majority of the directors or shareholders, as the case may be, participating during the course of such proceedings shall be valid and effectual as if it had been passed at a meeting of the directors or shareholders, as the case may be, called and constituted. The secretary of the company shall as soon as is reasonably possible after such meeting by telephone has been held, be notified thereof by the relevant parties to the meeting, and the secretary shall prepare a written minute thereof.
- 4.7.7. The company shall pay all reasonable costs of attending meetings of shareholders and directors, together with all reasonable subsistence relating thereto.

4.8 Shareholder's Special Resolutions

- 4.8.1. The following transactions, acts or matters shall not be performed or undertaken without the prior approval of directors holding at least 50% (eighty per cent) of the voting rights at a properly convened meeting of the directors of the company:
 - 4.8.1.1. the approval of the annual business plan and budget;

- 4.8.1.2. any expenditure outside the normal and ordinary course of the company's business and not reflected in or provided for in the annual budget;
 - 4.8.1.3. the establishment and opening of a banking account with any institution, or the removal of a banking account from one banking institution to another, or the creation of any inter-company borrowings;
 - 4.8.1.4. the appointment or removal of the auditors;
 - 4.8.1.5. the employment of any family member of any key managerial employee, being any employee who reports directly to the chief executive of the company, or any family member of the chief executive. In the event that such employment is approved, the terms and conditions of such employment shall require prior approval as well and shall not be altered without such consent;
 - 4.8.1.6. the conclusion of any contracts outside the ordinary course of business or the scope of the approved annual business plan or the approved budget;
 - 4.8.1.7. the obtaining of any general banking facilities, whether or not utilised, any liability or borrowing, whether interest-bearing or not, financial leases or suspensive sales, other than specifically budgeted for in the annual budget;
 - 4.8.1.8. any increase or reduction in the salaries or benefits payable to any member of the board of directors or any key managerial employee;
 - 4.8.1.9. any change in the basis of accounting, otherwise than in accordance with accepted good accounting principles, from those used by the company during its immediately preceding financial year.
 - 4.8.1.10. the furnishing of any encumbrances over any assets or of any guarantees, surety ships, undertakings, indemnities or other forms of intercession for the obligations of third parties;
 - 4.8.1.11. the acquisition of any shares or interest in any company, other form of legal entity, business, partnership or other undertaking or whatever nature;
 - 4.8.1.12. any major capital expansion;
 - 4.8.1.13. the making of loans or advances, or the giving or any credit (other than normal trade credit) to any person (other than any subsidiary of the company) except for the purposes of making deposits with banks which are repayable upon the giving of no more than 1 (one) days' notice; and
 - 4.8.1.14. the declaration and payment of dividends.
- 4.8.2. Notwithstanding anything to the contrary contained or implied in this agreement, or the articles of association of the company, or any other agreement between the shareholders, none

of the actions detailed hereunder may be taken or done by, or on behalf of the company, without the prior written consent of the shareholders who together hold not less than 80% (eighty per cent) of the entire ordinary issued share capital of the company:

4.8.2.1. any change in the financial year end of the company;

4.8.2.2. any disposal of the business or assets of the company (in the case of assets, otherwise than in the normal course of business of the company);

4.8.2.3. any matter relating to the financing or capital of the company which would have the effect of directly or indirectly reducing the shareholding of any shareholder in the company;

4.8.2.4. any funding of the company, by means of a loan, by any of the shareholders;

4.8.2.5. the liquidation of the company, or the placing of the company under judicial management (in either case, whether provisional or final), or a compromise between the company and its creditors;

4.8.2.6. any sale, assignment, transfer or other disposition by the company of any of its material intangible assets, including but not limited to goodwill or its name, product registrations, trademarks, patents or licenses, or the material amendment or variation thereof in any respect whatever;

4.8.2.7. the entering into of a partnership, or of any arrangement for the sharing of profits, union of interests, joint venture or reciprocal concession with any person otherwise than within the ordinary course of business;

4.8.2.8. the entering into of an amalgamation, merger or consolidation with any other body corporate;

4.8.2.9. the listing of the company on any stock exchange;

4.8.2.10. to change the nature of the company to another kind of company or a closed corporation;

4.8.2.11. the institution of any legal proceedings of any nature by the company, other than in the ordinary course of its business;

4.8.2.12. approval of share option scheme for directors;

4.8.2.13. making a loan to a director; and

4.8.2.14. approval of payments to directors for loss of office or in connection with schemes of arrangement or of take-overs.

Article 5 – Directors And Officers

5.1 Composition of the Board of Directors

The Board of Directors of the Company comprises out of a minimum of 3 directors, 1 of which is executive and 2 of which are non-executive and maximum of 9 directors, to be elected by holders of the companies securities entitled to exercise voting rights, as contemplated in section 68 of the Act.

- 5.1.1. Shareholders shall be entitled to nominate and appoint directors of the company and shall be entitled to remove any such directors appointed and to replace any such directors who are so removed or who cease for any other reason to be directors of the company.
- 5.1.2. In addition to satisfying the qualification and eligibility requirements set out in section 69 of the Act, to become or remain a director or a prescribed officer of the Company, a person need not satisfy any further eligibility requirements or qualifications with being a CFE in good standing set as a minimum requirement.
- 5.1.3. Each elected director of the Company serves for 9 years after which the board should test independence and objectivity to extend this period as set out in King IV and as contemplated in section 68(1) of the Act.
- 5.1.4. The manner of electing directors of the Company is as set out in section 68(2) of the Act where 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.
- 5.1.5. The authority of the Company's Board of Directors to fill any vacancy on the Board on a temporary basis, as set out in section 68(3) of the Act is not limited by this Memorandum of Incorporation.

5.2 Authority of the Board of Directors

- 5.2.1. The authority of the Company's Board of Directors to manage and direct the business and affairs of the Company, as set out in section 66(1) of the Act is not limited or restricted by this Memorandum of Incorporation.
- 5.2.2. If, at any time, the Company has only one director, as contemplated in section 57(3) of the Act, the authority of that director to act without notice or compliance with any other internal formalities, as set out in section is not limited or restricted by this Memorandum of Incorporation.

5.2A Liability of Directors

The company is a personal liability company and the directors and past directors are jointly and severally liable for the debts and liabilities of the company as contemplated in section 19(3).

5.3 Director's Meeting

- 5.3.1. The authority of the Company's Board of Directors to consider a matter other than at a meeting, as set out in section 74 of the Act is not limited or restricted by this Memorandum of Incorporation.
- 5.3.2. The right of the Company's directors to requisition a meeting of the Board, as set out in section 73(1) of the Act, is adapted as follow: Any director shall be entitled, on at least 10 (ten) days' written notice to the other directors (or such shorter notice as may be approved by the board at the board meeting concerned) to call a board meeting for the purpose specified in such notice.
- 5.3.3. The authority of the Company's Board of Directors to conduct a meeting entirely by electronic communication, or to provide participation in a meeting by electronic communication, as set out in section 73(3) of the Act, is not limited by this Memorandum of Incorporation.
- 5.3.4. The authority of the Company's Board of Directors to determine the manner and form of providing notice of its meeting, as set out in section 73(4) of the Act is not limited or restricted by this Memorandum of Incorporation.
- 5.3.5. The authority of the Company's Board of Directors to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) of the Act is not limited or restricted by this Memorandum of Incorporation.
- 5.3.6. The quorum for any directors' meetings of the company shall be at least 1 (one) of the directors present having been appointed by one of each of the major shareholders and, at least 1 (one) of the directors present having been appointed by Management.
 - 5.3.6.1. If within 30 (thirty) minutes after the time appointed for a meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place; or
 - 5.3.6.2. if that day is not a business day, to the next succeeding business day.
 - 5.3.6.3. If, at such adjourned meeting, a quorum is not present within 30 (thirty) minutes after the time appointed for the meeting, the directors or their alternatives then present shall be a quorum, provided that written notice of such adjourned meeting indicating the date, time and place where such adjourned meeting will be held, shall be required to be given to all the directors of the company not less than 48 (forty-eight) hours before such adjourned meeting is to be held.

5.3.7. Nothing contained in this agreement will be construed as obliging the board to meet in person or as preventing the holding of board meetings by way of conference telephone or any other means by which all participants may be simultaneously heard.

5.4 Director's compensation and financial assistance

The authority of a Company to pay remuneration to the Company's directors, in accordance with a special resolution approved by the Company's shareholders, as set out in section 66(9) and (10) of the Act is not limited or restricted by this Memorandum of Incorporation.

5.5 Indemnification of Directors

5.5.1. The authority of the Company to advance expenses to a director, or indemnify a director, in respect of the defence of legal proceedings, as set out in section 78(4) of the Act is not limited, restricted or extended by this Memorandum of Incorporation.

5.5.2. The authority of the Company to indemnify a director in respect of a liability, as set out in section 78(5) of the Act is not limited or restricted by this Memorandum of Incorporation.

5.5.3. The authority of the Company to purchase insurance to protect the Company, or a director, as set out in section 78(7) of the Act is not limited, restricted or extended by this Memorandum of Incorporation and is in accordance with the Delegation of Authorities.

5.6 Committees of the Board

5.6.1. The authority of the Company's Board of Directors to appoint committees of directors, and to delegate to any such committee any of the authority of the Board, as set out in section 72(1) of the Act, and to include in any such committee persons who are not directors, as set out in section 72(2)(a) of the Act is not limited or restricted by this Memorandum of Incorporation.

5.6.2. The authority of a committee appointed by the Company's Board of Directors, as set out in section 72(2)(b) and (c) of the Act is not limited or restricted by this Memorandum of Incorporation.

Schedule 1 – Incorporation and nature of the Company

Part A

1. Included in the powers of the company, and subject to the Companies Act, 2008 and this Memorandum of Incorporation and the special conditions as set out in paragraph 2 below, are the following powers:
 - a) To form and to have an interest in any companies, with objects similar to those of the company or to acquire all or any of the assets or liabilities of such company or companies, and to transfer to any company or companies all or any assets or liabilities of this company; provided that the said company or companies is/are within the Republic of South Africa and themselves must be approved by SARS in terms of section 30B of the Income Tax Act for the purposes of section 10(1)(d)(iv) of such Act.
 - b) To amalgamate with other companies having objects similar to those of this company; providing that the said company or companies is/are within the Republic of South Africa and themselves are approved by SARS in terms of section 30B of the Income Tax Act for the purposes of section 10(1)(d)(iv) of such Act.
 - c) To take part in management, supervision and control of business or operations of any other company or business having objects similar to those of this company and is approved by SARS in terms of section 30B of the Income Tax Act for the purposes of section 10(1)(d)(iv) of such Act.
 - d) To remunerate any person or persons in cash for services in its formation or in the development of the business.
 - e) To make donations to any other company or institution having the same or similar objectives provided that such company or institution is exempt from income tax in terms of section 10(1)(d)(iv) or 10(1)(cN) or section 10(1)(cA)(i) of the Income Tax Act.
 - f) To act as principal, agent, contractors or trustees in accordance with the main objects of the Company.
 - g) The Company will not be entitled to distribute in specie or in kind any assets among its members.
2. To the extent that the company has been approved in terms of section 30B of the Income Tax Act, for the purposes of section 10(1)(d)(iv) of the Income Tax Act, the following special conditions will apply:
 - a) At least three of the directors will not be connected persons in relation to each other.
 - b) No single person will have direct or indirect control of the decision-making powers relating to the company.

- c) The company will not directly or indirectly distribute any of its funds or assets to any person other than in the course of furthering its objectives.
- d) The company will utilise, substantially, the whole of its funds for the sole or principal object for which it has been established.
- e) No member may directly or indirectly have any personal or private interest in the company.
- f) Substantially, the whole of the activities of the company will be directed to the furtherance of its sole or principal object and not for the specific benefit of an individual member or minority group.
- g) The company will not have a share or other interest in any business, profession or occupation which is carried on by the members.
- h) The company will not pay to any employee, office bearer, member or other person any remuneration, as defined in the Fourth Schedule, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.
- i) The company's funding will be derived from workshops, inhouse training events, seminars, the ACFE Africa annual conference, training events, and member services provided in other countries.
- j) The company will on dissolution transfer its assets to —
 - (aa) another entity approved by the Commissioner in terms of this section.
 - (bb) a public benefit organisation approved in terms of section 30.
 - (cc) an institution, board or body which is exempt from tax under section 10 (1) (cA) (i).
 - (dd) the government of the Republic in the national, provincial or local sphere.
- k) The directors must submit any amendment of the Memorandum of Incorporation to the Commissioner within 30 days of its amendment.
- l) The directors will ensure that the company complies with such reporting requirements as may be determined by the Commissioner for SARS from time to time.
- m) The company will not knowingly become a party to, and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III, or a transaction, operation or scheme contemplated in section 103 (5) of the Income Tax Act.

Part B

1. The company will collect contributions in the Republic of South Africa as well as outside the borders of the Republic of South Africa.
2. The company will render its services in the Republic of South Africa, but also provide advisory services to other professional entities and/or Chapters of the ACFE in Africa.
3. Amendments to the Memorandum and Articles of Association will be made according to the procedure and in accordance with the provisions of the Companies Act, 1973.
4. No members and/or director will use the company to gain personal benefit in any contract concluded with third parties.
5. The income and property of the company will be applied solely towards the promotion of its main objects and no portion thereof will be paid or transferred, directly or indirectly, by way of dividend, bonus, or otherwise, to the members of the company or to its holding company or subsidiary: Provided that nothing herein contained will prevent the company in good faith from reasonably remunerating to any officer or servant of the company or any member thereof in return of any service actually rendered to the company.

Part C

Upon its winding-up, deregistration or dissolution, the assets of the company remaining, after satisfying its liabilities, will be given or transferred to some other charitable, ecclesiastical or educational association or institution having objectives similar to its main objectives, to be determined by the members of the Company at or before the time of dissolution or, failing such determination by the Court; provided that such other association or institution is within the Republic of South Africa and themselves exempt in terms of section 10(1)(d)(iv), or has been approved by SARS as a public benefit organisation as contemplated in section 30 of the Income Tax Act, or is exempt from income tax in terms of section 10(1)(cA)(i) of the Income Tax Act.

Part D

1. A Director of the company may only appoint one other Director as a proxy.
2. A proxy may not delegate the proxy's authority to act on behalf of the Director to another person.
3. The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarial certified copy of such power or authority will be deposited at the registered office of the

company not less than twenty-four (24) hours (or such lesser period as the directors may unanimously determine in relation to any particular meeting) before the time for holding the meeting (including an adjourned meeting) at which the person named in the form proposes to vote, and in default the form of proxy will not be treated as valid

4. A proxy is not entitled to exercise, or abstain from exercising, any voting right of the Director without direction.
5. The proxy form submitted in terms of Part C of Schedule 2 (c) will be deemed to be the actual vote of the Director.

Schedule 3 – Directors of the Company

Part A

1. The company may from time to time, at any meeting of members, increase or reduce the number of directors
2. Unless otherwise decided by a meeting of Shareholders any casual vacancy occurring in the Board of Directors may be filled by the directors.
3. The directors at a directors or shareholders meeting will have the power to appoint any person as a director ensuring that the total number of directors will not at any time exceed the maximum number fixed by or in terms of these Articles should there be a need to do so.

Part B

1. Directors must be CFE members who meet the following requirements:
 - 1.1 the nominated CFE has to be a member of the ACFE in good standing for a minimum of two consecutive years, or
 - 1.2 has the relevant qualification/skills set stipulated by the Board to fill the position identified
 - 1.3 has been an ACFE SA committee member for a minimum of 2 consecutive years or has been a director of the ACFE SA Board of Directors in the past and is still a CFE in good standing and actively involved.

The ACFE SA will use the criteria set by the ACFE in determining what will constitute as “relevant experience”.

2. Executive directors must be a CFE member in good standing with both the local and the international chapter.
3. A director will cease to hold office as such if:
 - 3.1 He/she ceases to be a director by virtue of any of the provisions of the Statutes or becomes prohibited from being a director by reason of any order made under the Statutes; or
 - a) his/her estate is sequestrated or files an application for the surrender of his/her estate, makes an application for an administration order, or if he/she is declared insolvent as defined in the insolvency law for the time being in force, or if he/she makes any arrangement or composition with his creditors generally; or
 - b) he/she is found or declared to be of unsound mind; or
 - c) he/she is removed by a resolution of the company as provided in the Statutes; or
 - d) he/she resigns from office by notice in writing to the company; or
 - e) he/she no longer qualifies for CFE or Associate membership
 - f) he/she is otherwise removed in accordance with any provisions of these Articles.
 - g) He/she takes leave of absence for more than three consecutive months
 - h) If there is a disciplinary action brought against any Board Member and the matter has not been resolved within three months from the action date the respective Board Member will be removed from the Board of Directors.
 - i) In breach of Clause 4.7 of the MoI
 - 3.2 No director or intending director will be disqualified by his own office from contracting with the company in any manner whatsoever.
 - 3.3 A director who has a vested interest in any transaction or decision will not be entitled to vote in relation thereto at any meeting. Such a director will not be reckoned for the purpose of constituting a quorum of directors.