

**Companies and Intellectual Property Commission  
Republic of South Africa**

Form CoR 15.1E  
Long Standard Form  
Non Profit Companies  
with members

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**MEMORANDUM OF INCORPORATION  
OF  
THE PUBLIC HEALTH ASSOCIATION OF SOUTH AFRICA  
(NON PROFIT COMPANY)**

AMENDED AND ADOPTED ON    NOVEMBER 2011

DEFINITIONS

“The Act” shall mean the Companies Act No 71 of 2008 (as amended). A special set of fundamental rules for non-profit companies is set out in Schedule 1 of the Companies Act, 2008. All companies that existed at the time of the coming into operation of the Act shall continue to exist as if they have been incorporated in terms of the Act.

“The Board” shall mean the Board of Directors of the PUBLIC HEALTH ASSOCIATION OF SOUTH AFRICA (NON PROFIT COMPANY) - established by Article 7. The Board may alternatively be described as the “Executive Committee” also abbreviated to “EXCO”.

“By-laws” shall refer to those rules or policies agreed by PHASA in a general meeting or by the Board of Directors.

“The Company” or alternatively “PHASA” shall mean the PUBLIC HEALTH ASSOCIATION OF SOUTH AFRICA (NON PROFIT COMPANY).

“Conference” refers to any meeting with a formal programme arranged for consultation or exchange of information or discussion.

“Directors” shall mean a member of the Board of Directors of PHASA established by Article 7.

“Members” shall mean the subscribers to the original Memorandum and Articles of Association and such other persons as the directors shall admit to membership in accordance with this Memorandum of Incorporation and who are duly registered in the Register of Members.

“Memorandum” shall mean the original Memorandum and Articles of Association as replaced by this Memorandum of Incorporation of PHASA adopted and filed in accordance with Item 4(2)(a) of Schedule 5 to the Act.

“The Republic” refers to the Republic of South Africa.

“Scrutineers” shall refer to those persons appointed to check the results of an election, poll or vote by ballot.

“Vested Interest” is a matter in which an individual or group have a personal stake or involvement in an undertaking or state of affairs, especially one with an expectation of financial gain.

“Public benefit activity” means any activity listed in Schedule 1 of the Act.

“The Incorporators” of PHASA are the subscribers to the Memorandum including the first directors and members.

In this Memorandum of Incorporation—

- (a) a reference to a section by number refers to the corresponding section of the Companies Act, 2008;
- (b) words that are defined in the Companies Act, 2008 bear the same meaning in this Memorandum as in that Act;
- (c) the headings are inserted for convenience only and have no significance in the interpretation of this Memorandum ;
- (d) words importing the singular shall include the plural and vice versa;
- (e) words importing persons shall include bodies corporate and words importing the masculine gender include the feminine gender and vice versa; and
- (f) references to the Annual General Meeting shall include those to the Bi-Annual General Meeting where this is applicable.

The Schedules (if any) attached to this Memorandum are part of the Memorandum of Incorporation.

**PREAMBLE:**

PHASA was incorporated as an Association Incorporated under Section 21 of the Companies Act No 61 of 1973 on 10 April 2001 with reference number 2001/008191/08;

PHASA wishes to amend the original Memorandum and Articles of Association and replace these with this Memorandum of Incorporation as permitted in terms of the provisions of Item 4(2)(a) of Schedule 5 to the Act.

PHASA at the Annual General Meeting of the Company held at Sandton Convention Centre on 29 November 2011 adopted this Memorandum of Incorporation and authorised the Board of Directors to attend to some consequential changes and to lodge same. The Board of Directors having met on 17 July 2012 has adopted this Memorandum of Incorporation and resolved to register same.

## **OBJECTS**

The Company is a Non Profit Company with members, with the main object to promote public health policy and practice in Southern Africa as a public benefit activity in the area of population health and health care as required in Section 1(1)(a)(i) of the First Schedule of the Act.

Each of the Company's activities shall be for the benefit of, or widely accessible to, the general public at large, including any not-for-profit group or groups in the health system.

### **Article 1 - Incorporation and Nature of the Company**

#### 1.1 Incorporation

- (1) The Company is incorporated as a Non Profit company, as defined in the Companies Act, 2008.
- (2) The Company is incorporated in accordance with, and governed by–
  - (a) the unalterable provisions of the Companies Act, 2008 that are applicable to Non Profit companies;
  - (b) the alterable provisions of the Companies Act, 2008 that are applicable to Non Profit companies, subject to any limitation, extension, variation or substitution set out in this Memorandum; and
  - (c) the provisions of this Memorandum of Incorporation.

#### 1.2 Objects and Powers of the Company

The Objects of the Company are as set out above and, except to the extent necessarily implied by the stated objects, the purposes and powers of the Company are not subject to any restriction, limitation or qualification, as contemplated in section 19(1)(b)(ii).

- (1) The Company is not subject to any provision contemplated in section 15(2)(b) or (c).
- (2) Upon dissolution of the Company, its net assets must be distributed in the manner determined in accordance with–
  - (a) Item 1(4)(b) of Schedule 2 of the Companies Act, 2008; and
  - (b) the provisions, if any, set out in Part C of Schedule 1 of this Memorandum.

### 1.3 Memorandum of Incorporation and Company rules

- (1) This Memorandum of Incorporation of the Company may be altered or amended in the manner set out in section 16, 17 or 152(6)(b), subject to the provisions contemplated in section 16(1)(c), and set out in Part D of Schedule 1.
- (2) The authority of the Company's Board of Directors to make rules for the Company, as contemplated in section 15(3) to (5) not limited or restricted in any manner by this Memorandum of Incorporation.
- (3) The Board must publish any rules made in terms of section 15(3) to (5) by delivering a copy of those rules to each director by ordinary or electronic mail.
- (4) The Company must publish a notice of any alteration of the Memorandum of Incorporation or the Rules, made in terms of section 17(1) by delivering a copy of those rules to each director by ordinary or electronic mail.

### 1.4 Optional provisions of Companies Act, 2008 do not apply

The Company does not elect, in terms of section 34(2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act, 2008.

### 1.5 Members of the Company

- (1) As contemplated in Item 4(1) of Schedule 2 of the Act, the Company has members, who are in either of two classes, being voting and non-voting members, respectively.
- (2) The terms and conditions of membership in the company are as set out in Part E of Schedule 1 to this Memorandum.

## **Article 2 - Rights of Members**

### 2.1 Members' authority to act

If, at any time, every member of the Company is also a director of the Company, as contemplated in section 57(4), the authority of the members 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.

### 2.2 Members' right to Information

In addition to the rights to access information set out in section 26(1), a member of the Company has the further rights to information, if any, set out in Part B of Schedule 2 of this Memorandum of Incorporation.

### 2.3 Representation by concurrent proxies

The right of a member of the Company to appoint persons concurrently as proxies, as set out in section 58(3)(a) is limited, restricted or varied to the extent set out in Part C of Schedule 2.

### 2.4 Authority of proxy to delegate

The authority of a member's proxy to delegate the proxy's powers to another person, as set out in section 58(3)(b) is limited or restricted to the extent set out in Part C of Schedule 2.

### 2.5 Requirement to deliver proxy instrument to the Company

The requirement that a member must deliver to the Company a copy of the instrument appointing a proxy before that proxy may exercise the member's rights at a members meeting, as set out in section 58(3)(c) is varied to the extent set out in Part C of Schedule 2.

### 2.6 Deliberative authority of proxy

The authority of a member's proxy to decide without direction from the member whether to exercise, or abstain from exercising any voting right of the member, as set out in section 58 (7) is limited or restricted to the extent set out in Part C of Schedule 2.

### 2.7 Record date for exercise of member rights

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

## **Article 3 - Members Meetings**

### 3.1 Requirement to hold meetings

The Company is required to hold members meetings, in addition to those specifically required by the Companies Act, 2008, as set out in Part A of Schedule 3.

### 3.2 Members' right to requisition a meeting

The right of members to requisition a meeting, as set out in section 61(3), may be exercised by at least 10 voting members.

### 3.3 Location of members' meetings

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

### 3.4 Notice of members meetings

The minimum number of days for the Company to deliver a notice of a members meeting to the members, as required by section 62 is as provided for in section 62(1).

### 3.5 Electronic participation in members 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 of the Act is limited or restricted to the extent set out in Part C of Schedule 3.

### 3.6 Quorum for members meetings

- (1) The quorum requirement for a members meeting to begin, or for a matter to be considered are as set out in section 64(1) subject to a minimum of 3 members in substitution for the twenty five percent (25%) required by that section.
- (2) The time periods allowed in section 64(4) and (5) apply to the Company, subject to the variations set out in Part D of Schedule 3.
- (3) The authority of a meeting to continue to consider a matter, as set out in section 64(9) is limited or restricted to the extent set out in Part D of Schedule 3.

### 3.7 Adjournment of members meetings

The maximum period allowable for an adjournment of a members meeting is as set out in section 64(13), subject to the variations set out in Part E of Schedule 3.

### 3.8 Members resolutions

- (1) For an ordinary resolution to be adopted at a members meeting, it must be supported by at least fifty percent (50%) of the members who voted on the resolution, as provided in section 65(7).
- (2) For a special resolution to be adopted at a members meeting, it must be supported by at least sixty percent (60%) of the members who voted on the resolution, despite section 65(7).

- (3) A special resolution adopted at a members meeting is not required for a matter to be determined by the Company, except those matters set out in section 65(11).

#### **Article 4 - Directors and Officers**

##### 4.1 Composition of the Board of Directors

- (1) The Board of Directors of the Company comprises of not less than 9 (nine) and not more than 14 (fourteen) directors and each of whom is to be appointed in the manner and for the periods as set out in Part A of Schedule 4.
- (2) In addition to the appointed directors there are no appointed or ex officio directors of the company, as contemplated in section 66(4).
- (3) In addition to satisfying the qualification and eligibility requirements set out in section 69, to become or remain a director of the Company, a person must satisfy the additional eligibility requirements and qualifications set out in Part B of Schedule 2.

##### 4.2 Authority of the Board of Directors

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) is not limited or restricted by this Memorandum of Incorporation.

##### 4.3 Board of Directors meetings

- (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 is not limited or restricted by this Memorandum of Incorporation.
- (2) The right of the Company's Directors to requisition a meeting of the Board, as set out in section 73(1), may be exercised by at least twenty five percent (25%) of the directors, as provided in that section.
- (3) The authority of the Company's Board of Directors to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73(3) is not limited or restricted by this Memorandum of Incorporation.
- (4) The authority of the Company's Board of Directors to determine the manner and form of providing notice of its meetings, as set out in section 73(4) is limited or restricted to the extent set out in Part F of Schedule 4.
- (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) is limited or restricted to the extent set out in Part F of Schedule 4.
- (6) The quorum requirement for a directors meeting to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at

such a meeting, areas set out in section 73(5), subject to the variations set out in Part F of Schedule 4.

#### 4.4 Indemnification of Directors

- (1) The authority of the Company's Board of Directors to advance expenses to a director, or indemnify a director, in respect of the defence of legal proceedings, as set out in section 78(3) is limited, restricted or extended to the extent set out in Part G of Schedule 4.
- (2) The authority of the Company's Board of Directors to indemnify a director in respect of liability, as set out in section 78(5) is limited, restricted or extended to the extent set out in Part G of Schedule 4.
- (3) The authority of the Company's Board of Directors to purchase insurance to protect the Company, or a director, as set out in section 78(7) is not limited or restricted by this Memorandum of Incorporation.

#### 4.5 Officers and Committees

- (1) The Board of Directors may appoint any officers it considers necessary to better achieve the objects of the Company.
- (2) 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), or to include in any such committee persons who are not directors, as set out in section 73(2)(a) is limited, restricted or extended to the extent set out in Part H of Schedule 4.
- (3) The authority of a committee appointed by the Company's Board, as set out in section 72(2)(b) and (c) is limited, restricted or extended to the extent set out in Part H of Schedule 4.

### **Article 5 - General Provisions**

#### Schedule 1 - Incorporation and Nature of the Company

##### Part A

- 1 PHASA must apply all of its assets and income, however derived, to advance its stated object. The activities are to be carried on in a not-for-profit manner and with altruistic or philanthropic intent. No funds shall be distributed to any person (other than in the course of undertaking any public benefit activity).
2. Specifically PHASA must 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 member or director, or person appointing a director, of the company, except—



- (a) as reasonable:
    - (i) remuneration for goods delivered or services rendered to, or at the direction of, PHASA; or
    - (ii) payment of, or reimbursement for, expenses incurred to advance the stated object of PHASA;
  - (b) as a payment of an amount due and payable by PHASA in terms of a bona fide agreement between the company and that person or another;
  - (c) as a payment in respect of any rights of that person, to the extent that such rights are administered by PHASA in order to advance a stated object of the company; or
  - (d) in respect of any legal obligation binding on PHASA.
3. No activity may promote the economic self-interest of any fiduciary or employee, other than reasonable remuneration to employees or officers. No remuneration will be paid to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.
4. Each of PHASA's activities shall be for the benefit of, or widely accessible to, the general public at large, including any not-for profit group or groups in the public sector of the health care system.

Part B

Not Applicable

Part C

- 1 Despite any provision in any law or agreement to the contrary, upon the winding-up or dissolution of PHASA as a non-profit company—
- 1.1. no past or present member or director of PHASA, or person appointing a director of that company, is entitled to any part of the net value of PHASA after its obligations and liabilities have been satisfied; and
  - 1.2 the entire net value of PHASA must be distributed to one or more non-profit companies, external non-profit companies carrying on activities within the Republic, voluntary associations or non-profit trusts—
    - (i) having objects similar to its main object; and
    - (ii) as determined—
      - (aa) by its members, if any, or its directors, at or immediately before the time of its dissolution; or

- (bb) by the court, if the Memorandum of Incorporation or the members or directors fail to make such a determination.

#### Part D

It shall be lawful for the members by special resolution to add to, repeal, alter, amend, vary or modify this Memorandum of Incorporation.

#### Part E

##### Membership

- 1 The subscribers to the original Memorandum and Articles of Association were the first members of the Company. Subsequently, any health professional, any other person involved in providing health care or any other person or organisation who associates with the objects of "PHASA" may apply to the Board of Directors for membership.
- 2 The Board of Directors shall be entitled to admit the following two categories/classes for membership:
  - 2.1 Full members, either individuals or organisations (voting); and
  - 2.2 Affiliated members being organisations, including all juristic persons, including profit companies, if applicable (non-voting).
- 3 There may be no restriction or regulation of the membership in any manner that amounts to unfair discrimination in terms of section 9 of the Constitution.
- 4 There may not be the presumption of the automatic or ex officio membership of any person, on any basis other than with that person's consent.
- 5 Full members shall have one (1) vote each, whether individual or organisational. Affiliated members shall have no right to vote.
- 6 The Board of Directors shall not be obliged to accept and enrol any person or organisation as a member and shall also be entitled to terminate the membership of a member. In providing notice of this decision to the individual or organisation concerned, a reason(s) shall be given. The party shall also be advised of their right to appeal such a decision on written notice to the Board within a period of ten (10) days. Upon receipt of such an appeal the Board must convene a three member panel within thirty (30) days to interview such member/s and after due consideration of the case, make a final determination.

- 7 The Board of Directors may offer membership from time to time to participants of a Conference organised by PHASA, subject to the participants indicating their consent to becoming members, provided that there shall be no obligation on the Directors to do so, or to enrol any specific person or organisation. A person may attend such a conference, but nevertheless remain free to opt-out of becoming a member without any expectation of any remission in the conference fee.
- 8 PHASA shall retain at its registered office a Register of Members, as provided in Section 24 of the Act.
- 9 The Register of Members shall be open to inspection as provided in Section 26 of the Act.
- 10 Only persons or organisations entered in the Register of Members will be considered members.
- 11 The minimum annual membership fee payable by the various categories of membership shall be determined by the Board from time to time.
- 12 Membership fees are payable annually in respect of each financial year of PHASA's which runs from 1<sup>st</sup> April in the year of payment to the 31<sup>st</sup> March of the following year. Such fees may be paid at any time during the financial year, including during the annual conference. Membership fees paid at a PHASA conference are applicable to the financial year in which the conference falls.
- 13 Members who are liable to pay membership fees may be required to pay an initial entry (joining) fee.
- 14 The Board may choose to waive the payment of a joining fee or annual fee in respect of those attending a conference.
- 15 A member whose membership has been terminated shall remain liable for all sums that may be due to PHASA as at the date of termination of his membership by PHASA and shall not be entitled to any refund of subscriptions already paid nor have any claim against PHASA or its officers, its property or its funds.
- 16 Should a member wish to resign or withdraw from PHASA s/he shall give written notice to PHASA by e-mail or at its registered office of her/his intention to do so, and s/he shall cease to be a member thirty (30) days after receipt by PHASA of such notice. S/he shall, nevertheless, for a period of one (1) year after she ceases to be a member, remain liable for any director's responsibilities undertaken in terms hereof or in terms of any applicable legislation.

- 17 The rights of a member shall be personal and not be transferable.
- 18 PHASA in a general meeting or the Board may, by resolution, alter the rules regarding membership.
- 19 The provisions of this Memorandum and any rules of the Company shall be binding on all members.
- 20 The Board shall have power to suspend and/or terminate a member's membership if in the sole discretion of the Board such member is guilty of conduct inimical to the interests and/or objects of PHASA by non-compliance with this Memorandum and any rules. The Board shall also be entitled to decide, in its sole discretion, whether or not any public announcement is made, either within or outside of PHASA, of any suspension and/or termination of membership.
- 21 Without derogating from the general meaning, termination of membership would apply to amongst others, the following situations:
  - 21.1 Where the member is found guilty of conduct inimical to the interests and/or objects of PHASA;
  - 21.2 Upon the death of a member;
  - 21.3 On her/his failing to pay the membership fees due by the third month following the commencement of the new financial year.
  - 21.4 On failing to pay, after reasonable demand any other amounts that may be due and payable to PHASA by the member.
- 22 A member of PHASA shall, after a period of three (3) months has elapsed from the date of confirmation of any such suspension and/or termination, be entitled on good cause shown to re-apply to the Board for membership of the Company.
- 23 Members shall be entitled to attend and participate in the meetings of PHASA, but only have such rights and privileges as are expressly conferred upon them in terms of this Memorandum, and applicable rules and the Act and shall be bound by the provisions thereof.
- 24 Members are entitled to receive notice of the date, time and venue of annual, bi-annual general or special general meetings together with the agenda and any resolution or report which may be proposed for discussion, adoption and decision at that meeting.

## Schedule 2 - Rights of Members

### Part A

Not Applicable

### Part B

Not Applicable

### Part C

#### PROXY

1. Any member of PHASA entitled to attend and vote at its meetings is entitled to appoint a proxy, and such proxy need not be a member of PHASA.
2. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his or her agent duly authorised in writing, or if the appointer is a corporate body under the hand of an officer or agent authorised by the body.
3. The holder of a general or special power of attorney given by a member shall be entitled to vote, if duly authorised under that power to attend and take part in the meetings and proceedings of PHASA.
4. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of such power of authority, shall be deposited at the registered office of PHASA before the time of holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.
5. No instrument appointing a proxy shall be valid after the expiration of six (6) months from the date when it was signed, unless so specifically stated in the proxy itself, and no proxy shall be used at an adjourned meeting which could not have been used at the original.
6. An instrument appointing a proxy may be in the following form or in any other form which the Board of Directors shall approve:

"I the undersigned, [*insert full names*], being a member in good standing of the PUBLIC HEALTH ASSOCIATION OF SOUTH AFRICA (NON PROFIT COMPANY), do hereby appoint the chairperson of the meeting or [*insert*

*full names if applicable*], as my proxy to vote for me and on my behalf at the ordinary (or Extraordinary, as the case may be) General Meeting of PHASA to be held on [*insert date/s of meeting/s*] and at any adjournment thereof.

Signed at [*insert place*] this [*insert date*].”

#### Part D

Not Applicable

#### Schedule 3 - Members Meetings

##### Part A

##### General Meetings

1. A general meeting shall be held once in every year or every alternate year at such a time and place as may be prescribed by PHASA in general meeting, or by the Board of Directors, subject always to the provisions of Section 61 of the Act. This meeting shall be known as the Annual General Meeting (AGM) or Bi-annual General Meeting.
2. The abovementioned general meetings shall be called ordinary meetings; all other general meetings shall be called Extraordinary or Special General Meetings.
3. The Board of Directors may, whenever it thinks fit, convene an Extraordinary General Meeting. An Extraordinary General Meeting shall also be convened on a request made in terms of Section 61 of the Act, or in default may be convened by those making the request as provided by and subject to the provisions of that Section. If at any time there shall not be within the Republic sufficient Directors capable of acting to form a quorum, any one (1) member of the Board of Directors may convene an Extraordinary General Meeting in the same manner as nearly as possible as that in which meetings may be convened by the Board of Directors. It shall be the duty of PHASA, subject to the provisions of the Act on the receipt of a request in writing of at least ten members, or such number of members as is specified in the said Act and at the expense of those making the request, to call a Special or Extraordinary meeting and to circulate to members sent to them, any statement of not more than one thousand (1000) words with respect to the matter referred to in any proposed resolution or the business to be dealt with at that meeting.

4. An Annual General Meeting, Bi-annual General Meeting or other General Meeting called for the passing of a Special Resolution shall be called by not less than twenty one (21) clear days' notice.
5. Any other General Meeting shall be called by fifteen (15) clear days' notice.
6. The notice shall be exclusive of the day on which it is served or deemed to be served and on the day for which it is given, and shall specify the place, the day and the hour of the meeting and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by PHASA in General Meeting, to all such persons or organisations as are, under this Memorandum entitled to receive such notices from PHASA; provided that a meeting of PHASA shall, notwithstanding the fact that it is called by shorter notice than that specified in this Memorandum, be deemed to have been duly called if it is to be agreed by a majority of the Board members elected to represent the members having a right to attend and vote at the meeting, being a majority holding not less than 2/3 (two thirds) of the total voting rights of all elected Board members. If the Board accidentally omits to provide notice of any meeting to any particular members, this shall not invalidate any Resolution passed at any such meeting.
7. Where, by any provision contained in the Act, special notice is required of a resolution, the resolution shall not be effective unless notice of the intention to move it has been given to PHASA not less than twenty-eight (28) days (or such shorter period as the Act may permit) before the meeting at which it is moved, and PHASA shall give to the members notice of any such resolution as required by and in accordance with the provisions of the said Act.
8. All business shall be deemed special that is transacted at an extraordinary meeting, and also all that is transacted at an ordinary meeting with the exception of the consideration of the accounts, balance sheets and the ordinary report of the Board of Directors and auditors, the election of directors and other officers in the place of those retiring, and the fixing of the remuneration of the auditors.
9. The register of members shall be available for inspection at the Annual General Meeting, Bi-annual General Meeting or other General Meeting called for the passing of a Special Resolution. No business shall be transacted at any meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three (3) members present in person shall be a quorum, subject thereto that such quorum complies with the requirements of Section 64 of the Act.

10. If within half (1/2) an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at such adjourned meeting a quorum is not present within half (1/2) an hour from the time appointed for the meeting, it shall be dissolved.
11. The chairperson, if any, of the Board of Directors shall preside as chairperson at every general meeting of PHASA.
12. If there is no chairperson, or if at any meeting the chairperson is not present within fifteen (15) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the members present in person shall choose someone of their number to be chairperson.
13. The chairperson may, with the consent of any meeting at which a quorum is present, (and shall if so directed by the meeting in terms of Section 64 of the Act), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned as a result of a direction given in terms of Section 64, as aforesaid, notice of the adjourned meeting shall be given in the manner provided in that section, and save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
14. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll by ballot is (before or on the declaration of a result of the show of hands) demanded, and, unless a poll by ballot is demanded, a declaration by the chairperson that a resolution has on a show of hands been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of PHASA shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
15. If a poll by ballot is duly demanded, it shall be taken in such manner as the chairperson directs and the result of the poll by ballot shall be deemed to be the resolution of the meeting at which the poll by ballot was demanded. Scrutineers shall be elected to declare the result of the poll by ballot, and their decision, which shall be given by the chairperson of the meeting, shall be deemed to be the resolution of the meeting at which the poll by ballot is demanded.



16. In the case of an equality of votes, whether on a show of hands or on a poll by ballot, the chairperson of the meeting at which the show of hands takes place or at which the poll by ballot is demanded, shall be entitled to a second or casting vote.
17. A poll by ballot demanded on the election of a chairperson, or on a question of adjournment shall be taken forthwith. A poll by ballot demanded on any other question shall be taken at such time as the chairperson of the meeting directs. The demand for a poll by ballot shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll by ballot has been demanded.
18. Any paid up member who has been in good standing for a period of at least one (1) year may be nominated to stand for election to the Board of Directors as provided for in Clause 11 of Part A of Schedule 4.
19. No more than one third (1/3) of the Board may be from any one (1) province or from any one (1) professional group.
20. If more than four (4) persons are nominated for election from any particular province or professional group, then prior to election of the Board as a whole, the membership will be required to vote on which four (4) nominations from such a province or professional group should be included for the final election.

#### Votes of Members

21. Members entitled to vote shall be those whose membership fees are fully paid up for the financial year in which the AGM falls, or are deemed to be paid-up by virtue of their fees being included in the current Conference fee.
22. Every member present in person or by proxy at a meeting shall have one vote, whether upon a show of hands or upon a secret poll by ballot. A proxy need not be a member of PHASA. If a member also serves as a proxy, s/he will be entitled to vote once on their own behalf and once for each member(s) for whom they are voting by proxy.
23. A member of PHASA who is a minor shall be entitled to vote at any meeting of PHASA, whether with or without his or her guardian's consent, and shall likewise be entitled to appoint a proxy to vote on his or her behalf.

## Notices

24. A notice may be given by PHASA to any member either by electronic mail, advertisement or personally, or by sending it through the post in a prepaid letter addressed to such member at his or her registered address or (if the member has not registered address in the Republic) at the address (if any) within the Republic supplied by such member to PHASA for the giving of notices to him or her. Any notice which may be given by advertisement shall be inserted either in the Government Gazette or in such newspapers as the Board of Directors may from time to time determine.
25. Any notice, if given by electronic mail or post, shall be deemed to have been served at the time when the communication containing the same was submitted or posted. Any notice given by advertisement shall be deemed to have been given on the day upon which the advertisement was published in the Government Gazette or newspaper. In proving the giving of the notice sent by electronic mail or post it shall be sufficient to prove the electronic mail, letter or copy of an advertisement containing the notice was properly addressed and put in to the Post Office or submitted to an e-mail address held in the PHASA membership contact details database.
26. The signature to any notice given by PHASA may be written or printed, or partly written and partly printed, or reproduced in any other way, including in an electronic format.
27. When a given number of day's notice or notice extending over any other period is required to be given, the day of service shall not be counted in such number of days or period.

Part B  
Not Applicable

Part C  
Not Applicable

Part D  
See Schedule 3 Part A above

Part E  
See Schedule 3 Part A above

Part F  
Not Applicable

## Schedule 4 - Directors of the Company

### Part A

#### Board Committee

1. Unless otherwise determined by the members in general meeting, the number of Directors shall not be less than nine (9) nor more than fourteen (14). The Board may propose the desired number of Board members for the following year to the AGM. The preferred number of members shall be ten (10) members unless otherwise specified.
2. No more than one third (1/3) of the Board shall be from any one (1) province or professional group and the persons nominated to serve on the Board should as far as possible reflect the geographic and professional representivity of the membership. The first Directors were nominated by the subscribers to the Memorandum of Association. Subsequently the Directors shall be nominated by Members in writing to the Secretary, who is a member of the Board as described above.
3. No remuneration shall be paid to Directors for their services as such but this provision shall not preclude a Director who is an employee of PHASA from receiving a salary for his or her services as such.
4. Notwithstanding the above, the Board may approve providing a cash advance for anticipated expenditure or refunding any Director or Directors all reasonable expenses incurred by him or her whilst on PHASA's business, provided that proof of such expenditure is submitted for approval.
5. If any Director is called upon to perform extra services or to make special exertions in going or residing abroad, or otherwise for any of the purposes of PHASA, the Board may remunerate that member as it deems fit, and may also refund to any Director or Directors all reasonable expenses incurred by him or her whilst on PHASA's business.
6. The Board of Directors shall for all purposes be deemed to be and regarded as directors of PHASA in terms of the Companies Act.

#### Election and Retirement of Board Members

7. The directors shall be elected at the conclusion of each Annual or Bi-annual General Meeting of PHASA and shall continue in office for a three (3) year term unless they retire or are removed from office as provided for herein.

8. The Directors shall retire at the end of each three (3) year term but shall be eligible for re-election.
9. Any Director who has served two continuous terms of three (3) years in office shall automatically retire and not be eligible for re-election for that year, provided that they may be re-elected in subsequent years. A retiring Director who has served for less than six (6) years shall be eligible for re-election in the same year.
10. If at the meeting at which a Director retires, the vacancy is not filled, the retiring Director shall, if available for re-election, remain a Director, and be deemed to have been re-elected by default. Provided that if at such meeting it is expressly resolved not to fill such vacated office or if a resolution for the re-election of such Director shall have been put to the meeting and not be carried, the vacancy shall remain until filled in some other manner as provided for herein.
11. No member other than a Director retiring at the meeting shall be eligible for election as a Director at any general meeting unless they have submitted their intention in writing or by e-mail not less than three (3) days before the date appointed for the meeting, indicating willingness to be elected.
12. PHASA may from time to time in general meeting increase or reduce the number of Directors, and may also determine in what rotation the increased or reduced number is to go out of office.
13. Unless the members otherwise determine in general meeting any casual vacancy occurring in the Board of Directors may be filled up by the Directors.
14. The Board of Directors shall have power at any time and from time to time to appoint a person as an additional Director who shall retire from office at the conclusion of the next following ordinary meeting but shall be eligible for election by PHASA at that meeting as an additional Director.
15. PHASA may by ordinary resolution of which special notice has been given in accordance with Section 71 of the Act, remove any Director before the expiration of the period of office notwithstanding anything in this Memorandum or in any agreement between PHASA and such Director. Such removal shall be without prejudice to any claim such Director may have against PHASA for damages for breach of any contract of service.

## Resignation of a Director and Vested Interest

16. The office of a Director shall be vacated, if the Director:
  - 16.1. ceases to be a Director by virtue of Sections 69 or 71 of the Act;
  - 16.2. resigns his office by notice in writing to PHASA;
  - 16.3. ceases to function as a Director by failure to attend three (3) consecutive meetings of the Board of Directors or failing to formally apologise in a manner acceptable to the Board for being unable to attend such meetings.
17. A Director may hold any other office or place of profit under PHASA in conjunction with membership, including that of attorney to PHASA, but except that of auditor, upon such terms as to remuneration, tenure of office and otherwise as the Board of Directors may determine.
18. A Director may be or become a director or officer of, any initiative or company promoted by PHASA or in which PHASA may be interested. No such Director shall be liable to account for any remuneration or other benefits received as a director or officer of or from his or her interest in such other initiative or company. The Board of Directors may exercise the voting power conferred by the shares in any other company held or owned by PHASA in such manner in all respects as they may think fit. This may include participating in any resolution appointing them or any of their number of Directors or officers of such other company or providing for the payment of remuneration to the Directors or officers of such other company, providing that such interests as may exist are declared to other members of the Board as indicated in sub-article 13 below. Such an interest will be regarded as one example of a vested interest. Board members should refrain from voting on any matter in which they have a vested interest and should declare this for the record in the minutes. Directors shall comply with the provisions of Section 75 of the Act.
19. No Director shall be disqualified by his or her office from contracting with PHASA, either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangements entered into by or on behalf of PHASA in which any Director shall be in any way interested or voided, nor shall any Director so contracting or being so interested directly or indirectly be liable to account to PHASA for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established, but it is declared that the nature and extent of such member's interest must be disclosed:
  - 19.1. at the meeting of the Board of Directors at which the contract or arrangement is determined, if the interest then exists; or

- 19.2. in any other case, at the first meeting of the Board of Directors after the acquisition of the interest at which it is possible to make such disclosures; or
- 19.3. in the case of a contract or proposed contract which is placed before the Board of Directors for confirmation or authorisation by means of a written resolution to be signed by them by a written notice given to the other Directors forthwith on receipt of such Director of the proposed resolution; or
- 19.4. if the contract is to be entered into by a Director/s and/or an official/s who has/have been so authorised thereto then in the manner set out in sub-paragraphs 13.1 and 13.2 above, and in addition by written notice given forthwith on becoming aware of such proposed contract to the Director/s and/or official/s authorised to enter into it; or
- 19.5. in the case of any other contract or proposed contract, or in any other case where the Director becomes interested in any contract after it is made, at the first meeting of the Board of Directors held after the Director becomes interested in the contract or proposed contract, and if for any reason it is not possible for the Director to make such declaration at that meeting, then at the first meeting of the Board of Directors held thereafter at which it is possible for the Director to do so;

and any such Director shall not be entitled to vote or otherwise participate in the deliberations in respect of any contract or arrangement in which such Director is so interested.

20. A general notice that a Director is a member or director of any specified firm or company, and is to be regarded as interested in all transactions with such firm or company, shall be sufficient disclosure under this clause as regards such Director, and the said transaction, and, after such general notice has been given it shall not be necessary for such Director to give a special notice of any particular transaction with such firm or company, provided that such general notice shall comply with Section 75 of the Act.
21. Nothing herein contained shall be taken or construed to prevent or debar any Director as a member from taking part in and voting upon all questions submitted to a Board of Directors meeting whether such Director be personally interested or concerned in such question or not, provided that disclosure shall be made in accordance with the terms of Section 75 of the Act.

Part B

Not Applicable

Part C

It shall be necessary for a Director to be a member of PHASA.

Part D

Not Applicable

Part E

Not Applicable

Part F

#### Powers and Duties of the Directors

1. The business of PHASA shall be managed by the directors, who may pay all expenses incurred in getting started and in registering PHASA, and may exercise all such powers of PHASA as are not by the Act or by this Memorandum, required to be exercised by PHASA in general meeting. Subject nevertheless that any provision of this Memorandum, the Act and of such rules not inconsistent with this Memorandum, as may be prescribed by PHASA in general meeting shall not invalidate any prior act of the Board of Directors which would have been valid if such rule had not been made.
2. The Board of Directors may appoint an administrative secretary of PHASA who is not a member of the Executive Board and determine his or her remuneration and the terms of his or her employment.
3. The Board of Directors may also from time to time appoint one or more persons to the office of co-ordinator for such term and at such remuneration as they may think fit. The Board may, at its discretion, provide an alternate job title for this position. Neither the coordinator nor any other employee of PHASA is required to be a member.
4. The Board of Directors may from time to time entrust to or confer upon a co-ordinator for the time being, such powers and authorities vested in them as they may think fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as they may think

expedient and may from time to time revoke or vary all or any of such powers and authorities.

5. The Board of Directors may establish a set of working procedures and organisational rules and policies which they may update from time to time. These procedures and policies will be regarded as binding on all members of PHASA, provided that that any such rules must be consistent with this Memorandum as well as any applicable legislation. These procedures and policies shall be ratified at the next AGM or special general meeting.
6. The Board of Directors shall cause minutes to be made in books provided for the purpose:
  - 6.1 of all appointment of the Directors;
  - 6.2 of all the names of the Directors present at each meeting of the Board of Directors;
  - 6.3 of all resolutions and proceedings at all meetings of PHASA and Directors.
7. Every Director present at any meeting of the Board of Directors shall sign his name in a book to be kept for that purpose.

#### Proceedings of Board of Directors

8. The Board of Directors may meet together for the undertaking of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes the chairperson shall have a second or casting vote. The Board of Directors may, and the secretary on the requisition of a Director shall, at any time summon a meeting of the Board of Directors.
9. The quorum necessary for the transaction of the business of the Board of Directors may be fixed by the Board of Directors and unless so fixed shall be two (2). A Director attending by means of a teleconference, electronic or internet link will be deemed to be present at the meeting.
10. A Resolution in writing signed by all the Directors for the time being shall be as valid and effectual as if it had been passed at a meeting of the Board of Directors duly called and constituted.
11. The continuing Directors may act notwithstanding any vacancy in the Board of Directors if and so long as their number is reduced below the number fixed by or pursuant to the articles of PHASA as the necessary quorum of Directors. The continuing Directors may act for the purpose of increasing the number of Directors to that number, or of summoning a general meeting of PHASA, but for no other purpose.



12. The Board of Directors may elect a chairperson of its meetings and determine the period for which he or she is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not present within five (5) minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairperson of the meeting.
- 13 All acts done by any meeting of the Board of Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every person had been duly appointed and was qualified to be a Director.

#### Borrowing Powers

14. The Board of Directors may in its discretion from time to time raise funds or borrow from the members or other persons any sums of money for the purpose of PHASA without limitation.
15. The Board of Directors may raise or secure the repayment of such moneys in such manner and upon such terms and conditions in all respects as they may think fit, and in particular by the execution of mortgage bonds, the issue of debentures, or debenture stock of PHASA charged upon all or any part of the property and rights of PHASA, both present and future.

#### Accounts

16. The Board of Directors shall cause such books of account as are prescribed by Section 28 of the Act to be kept.
17. The books of account shall be kept at the registered office of PHASA, or at such other place or places as the Board of Directors thinks fit, and shall always be open to inspection by members of the Board of Directors.
18. The Board of Directors shall from time to time determine whether, to what extent and at what times and places and under what conditions or regulations the accounts and books of PHASA or any of them shall be open to the inspection by members, who are not Directors, and no member (not being a Director) shall have the right of inspecting any account or books or document of PHASA except as conferred by statute or authorised by the Board of Directors or by PHASA in general meeting.
19. The Board of Directors shall from time to time in accordance with Sections 27, 28 and 29 of the Act cause to be prepared and laid before PHASA in

general meeting such financial statements, profit and loss accounts, balance sheets, and reports as are referred to in those sections.

20. Subject to the terms of Section 33 of the Act, a copy of any returns and financial statements (including every document required by law to be annexed thereto) which is to be laid before PHASA in general meeting, together with a copy of the Board of Director's report and of the auditors report, shall not less than twenty-one (21) days before the date of the meeting be sent to every member of PHASA; provided that this clause shall not require this in respect of a member of whose address PHASA is not aware.

#### Surpluses/Profits and Reserve

21. The Board of Directors may set aside out of the surpluses/profits of PHASA, if any, such sums as they think proper as a reserve or reserves, which shall, at the discretion of the Board of Directors, be applicable for meeting contingencies or for any other purpose to which the profits of PHASA may be properly applied and pending such application may, at the like discretion, either be employed in the business of PHASA or be invested in such investments as the Board of Directors may from time to time think fit.
22. Any profits not set aside as a reserve or reserves in terms of the preceding clause shall be utilised by the Board of Directors, subject to whatever directions the Board of Directors in general meeting may stipulate, for the purposes contemplated in objects of this Memorandum.

#### Part G

##### Indemnity

1. Every Director, manager, secretary, or other officer, agent or employee of PHASA, shall be indemnified by PHASA, and it shall be the duty of the Board of Directors, out of the funds of PHASA, to pay and satisfy all costs, losses, expenses and liabilities which any such director, officer, agent or employee of PHASA may incur or become liable to by reason of any contract entered into, or deed done by him or her, in the course of PHASA's business.
2. No Director or other officer of PHASA shall be liable for the acts, receipts, neglects or defaults of any other Director or officer or for joining in any receipts or other acts for any loss or damage happening to PHASA through the insufficiency or deficiency of title to any property acquired by order of the Board of Directors for or on behalf of the Company, or for the insufficiency or deficiency of any security in or upon which any of the

moneys of PHASA shall be invested, or for any loss or tortuous acts of any person with whom any moneys, securities or effects shall be deposited or for any other loss, damage or misfortune whatever which shall happen in execution of the duties of his respective office, or in relation thereto, unless the same happens through his own gross negligence or wilful default.

#### Part H

1. The Board of Directors may constitute and/or delegate any of their powers to sub-committees, special interest groups, forums, caucuses or a student assembly, consisting of such person or persons as they or the broader membership in general meeting think fit. Any such group shall comprise not less than eight (8) members. Any committee so formed shall operate within the overall rules and policies of PHASA under a written terms of reference in the exercise of the powers so delegated and conform to any rule that may be imposed on it by the Board of Directors.
2. The Board of Directors may sanction the establishment of Branches or Chapters to function on a regional or provincial basis as they or the broader membership in general meeting think fit. Any Branches or Chapters so formed shall comprise not less than ten (10) members and shall operate under a written terms of reference in the exercise of any powers delegated and conform to any rule that may be imposed on it by the Board of Directors.
3. A sub-committee, special interest group, forum, caucus, student assembly, branch or chapter may elect a chairperson for its meeting. If no such chairperson is appointed, or if at any meeting the chairperson is not present within five (5) minutes after the time appointed for holding same, the members present may choose one of their number to be chairperson of the meeting.
4. A sub-committee, special interest group, forum, caucus, student assembly, branch or chapter may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of any equality of votes, the chairperson shall have a second or casting vote.
5. All such structures shall report to the Board not less than quarterly or in line with their written terms of reference.