

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

**Companies Act 71 of 2008**

**MEMORANDUM OF INCORPORATION FOR A NON PROFIT COMPANY WITH  
MEMBERS**

**DIRECTORS OF QUALITY AND IMPROVEMENT NPC**

referred to in this Memorandum of Incorporation as “the DoQI”

Registration number 2023/227801/08

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## 1. INTERPRETATION

1.1 In this Memorandum of Incorporation, unless the context otherwise requires:

- 1.1.1 **“Board”** means the board of Directors of the DoQI;
- 1.1.2 **“Chair”** means the chair of the Board of Directors;
- 1.1.3 **“Code”** means the DoQI Member Code of Professional Conduct;
- 1.1.4 **“Commission”** means the Companies and Intellectual Property Commission established in terms of section 85;
- 1.1.5 **“Companies Act”** means the Companies Act, No. 71 of 2008, as amended from time to time;
- 1.1.6 **“Directors”** the directors of the DoQI;
- 1.1.7 **“ex officio Director”** means a person who holds office as a Director of a particular company solely as a consequence of that person holding some other office, title, designation or similar status specified in this MOI;
- 1.1.8 **“file”** when used as a verb, means to deliver a document to the Commission in the manner and form, if any, prescribed for that document;
- 1.1.9 **“General Meeting”** any general meeting of the Members, and all references in this MOI to "General Meeting" shall, where the context so requires, include a reference to an "annual General Meeting";
- 1.1.10 **“Income Tax Act”** means the Income Tax Act, No. 58 of 1962 as amended from time to time, including its replacement;
- 1.1.11 **“Individual”** means a natural person;
- 1.1.12 **“DoQI”** means the Directors of Quality and Improvement NPC with registration number 2023/227801/08, a non-profit company incorporated and existing under the laws of the Republic of South Africa;
- 1.1.13 **“Member”** any member of the DoQI as contemplated by clause 6;
- 1.1.14 **Member Regulations** means DoQI Member Regulations, as amended from time to time;
- 1.1.15 **“MOI”** means this Memorandum of Incorporation;
- 1.1.16 **“Record Date”** means the date established under section 59 on which a company determines the identity of its members for the purposes of the Companies Act;
- 1.1.17 **“Rules”** means any rules made by the Board as contemplated in section 15(3) to (5);

- 1.1.18 **“Sign”** includes the reproduction of a signature lithography, printing with a rubber stamp, or any other mechanical or electronic process, or partly the one and partly the other process and “signature” has the corresponding meaning; and
- 1.1.19 **“World Quality Forum”** means World Quality Forum NPC, a company incorporated in accordance with the Companies Act, with registration number 2020/937767/08, referred to as the Forum,
- 1.1.20 **“Writing”** includes printing, typewriting, lithography or any other electronic or mechanical process, or partly one and partly the other. A requirement that a document, notice or information should be given in Writing will be met if the document, notice or information is in the form of a data message and accessible in a manner usable for subsequent reference. “Written” has a corresponding meaning.
- 1.2 All references to "section/s" in this MOI refer to the sections of the Companies Act unless the context indicates otherwise.
- 1.3 The headings are for reference purposes only and shall not affect the interpretation of this MOI.
- 1.4 Words in the singular number shall include the plural, and words in the plural number shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not).
- 1.5 Words that are defined in the Companies Act bear the same meaning in this MOI as in that Act.
- 1.6 If any term is defined within the context of any particular clause in the MOI, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in this interpretation provision.
- 1.7 If the provisions of this MOI are in any way inconsistent with the unalterable provisions of the Companies Act, the provisions of the Companies Act shall prevail.
- 1.8 The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI.
- 1.9 each provision and each sentence and each part of a sentence in this MOI is separate and severable from each other, and to the extent that any provision or sentence or part thereof is found to be illegal or unenforceable or inconsistent with or contravenes any provision of the Companies Act, or void, such may to that extent only be modified or severed from the MOI, so that the remaining part of that provision or sentence or part thereof, as the case may be, is legal, enforceable or consistent with or does not contravene the Companies Act or is not void.
- 1.10 This MOI does not impose any liability on any person for the liabilities or obligations of the Company, in addition to those set out in the Companies Act.

## 2. OBJECTS

The objects of the DoQI are to:-

- 2.1 support, influence and perform advocacy for the recognition, acceptance and establishment of the role of quality and improvement as a stand-alone component of effective and good corporate and public governance worldwide, with the objective of ensuring the highest state of Total Quality Maturity of governing bodies and their organizations in relation to the achievement of high performance through and in total quality and improvement;
- 2.2 Support and promote the development of, and adopt associated theory and body of knowledge in the field of quality and improvement in public and corporate governance,
- 2.3 enable the empowerment of members of governing bodies who are responsible for quality and improvement functions to effectively discharge their responsibilities;
- 2.4 take steps to actively lead, participate in and support programmes to develop, enact or amend international and national legislation, protocols and quality standards to provide for, amongst others, the inclusion, codification and regulation on matters of governance of quality and improvement, and standardization of total quality.
- 2.5 help define, promote and safeguard the integrity and status of the role of directorship of quality and improvement, and to take measures to support and promote the establishment of the role as a regulated profession
- 2.6 position the organization as the globally recognized and accepted professional body for members of governing bodies who are responsible for the functions of quality and improvement, and which also facilitates the qualification, accreditation and licensing of such members of governing bodies to practice as such;
- 2.7 be the unified, independent global voice and representative for directors of quality and improvement in fora of the Forum and all spheres; and establish and oversee country or regionally-based chapters,
- 2.8 establish relationships with other mutually complimentary bodies and organizations in-country and globally who benefit the DoQI; take up any required membership, affiliations, associations and participation opportunities in such organizations on terms agreed with such bodies or organizations, and provide opportunities to its members to influence, contribute and network with one another and with members from such other allied organizations as applicable, in consultation with the Forum,
- 2.9 access and avail resources to help safeguard and promote the professional interest and wellbeing of members to secure their effectiveness and independence in the execution of their functions;
- 2.10 help establish and guide allied professional bodies where none exist, and absorb any others where it is deemed beneficial for such to be established or absorbed,
- 2.11 source and facilitate the training and competency building for members, governing bodies, including identified members of the public,
- 2.12 conduct or participate in research projects, funding support, produce or contribute to publications which communicate and promote the organization and its objects;
- 2.13 support, partake in or undertake public initiatives and programmes that are aimed at improving and promoting public awareness, knowledge and appreciation of the concept of good quality in society; provide advice, community safeguarding against harmful quality practices, and the promotion of Society Quality maturity
- 2.14 Promote respect for, acceptance and stature of quality and Quality by identifying, nominating and recommending to the Forum for the special recognition of Quality and non-Quality Individuals and entities for making a difference in the advancement of quality and Quality.
- 2.1.5 Realise the above objects by working under the stewardship of the Forum, advocating for and availing its members to participate in the Forum's programmes, activities and structures.

### **3. INCORPORATION AND NATURE OF THE DOQI**

#### **3.1 Incorporation**

3.1.1 The DoQI was originally incorporated as a Non Profit company without members, in terms of the Companies Act. This MOI amends the standard MOI COR15.1C clause 1.5, and paragraph 3.1.1, to enable the company to have members.

3.1.2 The DoQI is incorporated in accordance with, and governed by:-

3.1.2.1 the unalterable provisions of the Companies Act that are applicable to Non Profit companies;

3.1.2.2 the alterable provisions of the Companies Act that are applicable to Non Profit companies, subject to any negation, restriction, limitation, qualification, extension, variation or substitution set out in this MOI;

#### **3.2 Promotion of the objects and powers of the DoQI, and relations with the Forum**

3.2.1 The DoQI is incorporated to operate in a business model as a membership wing of the Forum, and thus it and its members largely evangelise, champion and help realize the mission, vision and objectives of the Forum. Consequently, the DoQI derives the basis of its existence and relevance from the mission, vision, objects, programmes and work done by the Forum, and thus benefits from the work and resources of the Forum. Therefore given the interdependence and interconnectedness of its objects to those of the Forum, the DoQI has anchored its own mission, purpose, vision and operations in a manner as an intricate and inseverable affiliate or associate of the Forum to enable it to achieve its own objects, purpose and mission. The DoQI is not a development house, but it sources products and programmes that promote its objects from the Forum.

This relationship is formalised and clarified in an arrangement concluded between the DoQI and signed with the Forum, namely, the Affiliate and internal service level agreement.

3.2.2 In order to promote and maintain close communication, the Chair and the Head of the DoQI shall separately and or jointly brief and consult with the Chair of the Forum on any relevant matter pertaining to the DoQI, and in any manner and frequency as determined by the Chair of the Forum, or per request of either or both the Chair and the Head of the DoQI.

3.2.3 The objects of the DoQI are as set out in clause 2 and, except to the extent necessarily implied by the stated objects, the DoQI has the powers and capacity of an Individual as envisaged by section 19(1)(b).

3.2.4 The DoQI is not subject to any restrictive conditions and there are no additional requirements or restrictions which apply to the amendment of this MOI as envisaged by section 15(2)(b) and section 15(2)(c) and accordingly the DoQI may do anything which the Companies Act empowers a company to do subject to the restrictions or prohibitions set by this MOI or the agreement concluded with the Forum pursuant to this clause 3.

### 3.2.4 The DoQI:

3.2.4.1 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 DoQI, except:

3.2.4.1.1 as reasonable payment or remuneration for goods delivered or services rendered to, or at the direction of, the DoQI;

3.2.4.1.2 as reasonable payment of, or reimbursement for effort and expenses incurred in the incorporation and establishment of the DoQI, or to advance a stated object of the DoQI;

3.2.4.1.3 as a payment of an amount due and payable by the DoQI in terms of an agreement between the DoQI and that person or another party, such as in clause 3;

3.2.4.1.4 as a payment in respect of any rights of that person, to the extent that such rights are administered by the DoQI in order to advance a stated object of the DoQI; or

3.2.4.1.5 in respect of any legal obligation binding on the DoQI;

3.2.4.2 must apply all of its assets and income, however derived, to advance its stated objects, as set out in this MOI; and, subject to clause 3.2.4.2 and 9, may:

3.2.4.2.1 invest its surplus funds in assets that are not tied to e.g. shares issued by a profit company; or government issued bonds, and

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

## 4. RULES AND AMENDMENT OF THE MOI AND RULES

4.1 The Board may make, amend or repeal any necessary or incidental Rules relating to the governance of the DoQI by publishing a copy of these Rules on its website and by filing a copy of the Rules with the Commission. Any Rules published in this manner take effect on the date specified in that rule and shall be subject to ratification by the Members as set out in section 15(4)(c)(ii).

4.2 The Board may propose to amend any of the provisions of this MOI and the Members may by way of special resolution adopt such amendments.

4.3 A notice of the proposed alterations of the MOI shall be sent to each Member by electronic transmission, or by publication of same on its website and notifying Members to the publication thereof at least 15 (fifteen) Business Days before the meeting at which the special resolution to amend the provisions of the MOI is to be passed.

4.4 The Board shall ensure that a copy of any amendments that have been made to the MOI have been provided to the Commission within 30 (thirty) days of having effected such amendments.

4.5 The Board or a person authorised by the Board may alter the MOI or the Rules to correct any patent errors (spelling, punctuation, grammar, referencing or similar defects on the face of the document) by publishing a notice of the alteration, on its website or in any other manner required or permitted by the Rules and by filing a notice of the alteration with the Commission.

- 4.6 No amendments to the MOI shall be made which will:-
- 4.6.1 allow any income or other funds or other assets of the DoQI to be applied for a purpose which does not promote the achievement of the objects of the DoQI; or
  - 4.6.2 amend this clause 4.6 in any manner which would give any proprietary or similar interest in the DoQI's income or other funds or other assets to any Individual or any incorporated entity contrary to the provisions of the Income Tax Act.
  - 4.6.3 Alter, remove or amend clauses 2, 3, 6.9, 7.7 and 7.8 in such a way as to detract or steer the DoQI away from the objects of these clauses.
  - 4.6.4 Cause that the Forum is either a surety or is jointly or severally liable with, or is a party in any legal disputes between the DoQI, its staff and any third parties.

## **5. OPTIONAL PROVISIONS OF THE COMPANIES ACT**

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

## **6. MEMBERS OF THE DOQI**

### **6.1 Membership**

- 6.1.1 A Member shall be an Individual.
- 6.1.2 The Board may, in its sole discretion, determine the categories or levels of membership, together with the corresponding eligibility criteria and benefits.
- 6.1.3 The DoQI may confer membership of a certain category or level and any benefits on an Individual or entity who qualifies in terms of the eligibility criteria for that category or level, or at its discretion.
- 6.1.4 The DoQI shall publish Member Regulations that will govern all aspects related to membership, such as the membership eligibility criteria, membership fees, application process, benefits, rights and obligations of members, termination or suspension of members and any other membership related processes, procedures, rules and regulations.
- 6.1.5 Membership, for a determined period, only becomes effective subject to the following:
  - 6.1.5.1 submission of the prescribed membership application form;
  - 6.1.5.2 acceptance of the application by the DoQI,
  - 6.1.5.3 payment of the stated membership fee,
- 6.1.6 The decision to accept or to reject an application for membership is in the discretion of the DoQI, subject to applying the necessary eligibility criteria as set out in the Member Regulations.
- 6.1.7 The Membership of the DoQI will be global
- 6.1.8 The DoQI shall maintain at its registered office a register of Members of the DoQI as required by the Companies Act.

### **6.2 Termination, suspension, regrading of Membership and levels**

The grounds for termination, suspension or regrading of membership shall be determined by the DoQI from time to time, as published in the Member Regulations.



### 6.3 Rights of Members

- 6.3.1 The board shall determine the voting rights of members per type.
- 6.3.2 The Board has regard to each of the Members' rights not to be discriminated against unfairly, as provided in section 9 of the Constitution of the Republic.

### 6.4 Appointment of proxies

- 6.4.1 A Member in good standing may appoint any Individual, who is a Member in good standing of the DoQI, as a proxy to participate in and speak and vote at a General Meeting on behalf of the Member.
- 6.4.2 The instrument appointing a proxy shall be in Writing in the format prescribed by the DoQI and dated and Signed by the appointing Member, or, if the appointing Member is an incorporated entity, under the hand of an officer or agent authorised by the incorporated entity.
- 6.4.3 The instrument appointing a proxy shall be delivered to the registered office of the DoQI not less than 72 (seventy two) hours before the time for holding the General Meeting at which the person named in the instrument proposes to vote, and in default of complying herewith the instrument of proxy shall not be treated as valid, unless the Chair, in his/her sole discretion decides otherwise. This instrument may be delivered electronically.
- 6.4.4 No instrument appointing a proxy is valid after the expiration of 1 (one) year from the date when it was Signed, unless so specifically stated in the proxy itself, and no proxy shall be used at an adjourned General Meeting which could not have been used at the original General Meeting.
- 6.4.5 A Member of the DoQI may only appoint 1 (one) Member as proxy.
- 6.4.6 A Member's proxy shall not have the authority to further delegate such proxy's powers to another person.

### 6.5 Record Date for exercise of Member rights

If, at any time, the Board fails to determine a Record Date, the Record Date for participating in and voting at a General Meeting is the latest date by which the DoQI is required to give Members notice of that meeting.

### 6.6 General Meetings

- 6.6.1 The DoQI must hold an annual General Meeting within 16 (sixteen) months of the previous annual General Meeting held.
- 6.6.2 The right of Members to requisition a General Meeting, as set out in section 61(3), may be exercised by at least 51% of the Members in good standing,
- 6.6.3 The DoQI must deliver a notice of each General Meeting (including the annual General Meeting) at least 15 (fifteen) Business Days before the date of the meeting in the manner and form as prescribed by section 62(3) to all of the Members of the DoQI as at the Record Date for the meeting.
- 6.6.4 The authority of the Board to determine the location of any General Meeting, as set out in section 61(9), is not limited or restricted by this MOI.
- 6.6.5 The authority of the DoQI to conduct a General Meeting entirely by electronic communication, or to provide for participation in a General Meeting by electronic communication, as set out in section 63, is not limited or restricted by this MOI. The DoQI may, from time to time, provide for Members to participate in General Meetings by way of electronic communication, in the event of which the DoQI shall communicate this to Members in advance of the General Meeting as required by section 63.

- 6.7 Proceedings, quorum and voting at General Meetings
- 6.7.1 At the annual General Meeting the following matters are dealt with and disposed of:
- 6.7.1.1 presentation of:
    - 6.7.1.1.1 the Directors' report;
    - 6.7.1.1.2 audited financial statements for the immediately preceding financial year;
  - 6.7.1.2 the election of non-executive Directors per clause 7.4
  - 6.7.1.3 the appointment of an auditor for the ensuing financial year;
  - 6.7.1.4 any matters placed on the agenda by the Board; and
  - 6.7.1.5 any matters raised by the Members and which have been approved for placement on the agenda by the Board.
- 6.7.2 A General Meeting may not begin until at least 7 (seven) Members are present at the meeting and any matter to be decided at the meeting may not begin to be considered and decided unless at least 7 (seven) Members are present at the meeting at the time the matter is called on the agenda.
- 6.7.3 The Chair presides as chair at every General Meeting of the DoQI. If the Chair is unwilling or unable to act as chair of the General Meeting or is not present within 15 (fifteen) minutes after the time appointed for holding the meeting, the Board members present shall elect one of their number to be chair of the meeting.
- 6.7.4 If within 1 (one) hour from the time appointed for the General Meeting to commence, a quorum consisting of the 7 members as contemplated in paragraph 6.7.2 is not present, the General Meeting shall be postponed, without motion, vote or further notice, for 1 (one) week to the same time and day in the next week or, if that day is not a Business Day, to the next succeeding day which is a Business Day, and if at such adjourned General Meeting a quorum is not present within 1 (one) hour from the time appointed for the General Meeting, then the Members entitled to vote and present at the meeting shall be deemed to be the requisite quorum.
- 6.7.5 At a General Meeting, voting may either be by show of hands, or by polling.
- 6.7.6 A polled vote must be held on any particular matter to be voted on at a General Meeting if a demand for such a vote is made by at least 7 (seven) persons having the right to vote on that matter, either as a Member or a proxy representing a Member.
- 6.7.7 A declaration by the chair of the General Meeting that a resolution has been carried together with an entry to that effect in the General Meeting's minutes is conclusive evidence of the fact, but with proof of the number or proportion of the votes recorded in favour of such resolution.
- 6.7.8 If a poll is duly demanded it shall be taken in such a manner as the chair directs and the result of the poll shall be deemed to be the resolution of the General Meeting at which the poll was demanded. The chair of the General Meeting may appoint verifiers to determine and confirm the result of the poll.

- 6.7.9 A poll demanded on the question of adjournment, is taken forthwith. A poll demanded on any other question is taken at such time as the chair of the General Meeting directs and no notice need be given of a poll not taken immediately. The demand for a poll shall not prevent the continuation of a General Meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 6.7.10 On a show of hands, or through any other effective and verifiable manner, at a General Meeting each person who is entitled to vote on a resolution proposed at that meeting and is present by person or by proxy is entitled to 1 (one) vote on that resolution, notwithstanding the number of proxies held.
- 6.7.11 On a poll at a General Meeting each person who is present, whether in person or by proxy, is entitled to 1 (one) vote on a resolution proposed at that meeting.
- 6.8 Members resolutions
  - 6.8.1 For an ordinary resolution to be adopted at a General Meeting, it must be supported by 50% or more of the Members who voted on the resolution, as provided for in section 65(7).
  - 6.8.2 For a special resolution to be adopted at a General Meeting, it must be supported by 75% or more of the Members who voted on the resolution, as provided for in section 65(9).
  - 6.8.3 The quorum for both ordinary and special resolutions is as set out in clause 6.7.2.
- 6.9 Growth, geographical expansion of membership and establishment of chapters
 

The DoQI may, per clause 4 of this MOI, make specific rules on how it will execute clauses 6.6, 6.7, 6.8 and 7.4 to introduce processes and procedures which will allow members who are based in different country chapters to participate in General Meetings, the nomination and election of non-executive directors, and how chapters are to be constituted, governed, operated, funded, their reporting and relations with the global executive and board. Such rules can include the introduction General meetings at country chapter level, and where their outcomes are consolidated to a global General Meeting for consideration. Country chapters of the DoQI shall not become independent and or incorporated entities in their own right.

## **7. BOARD OF DIRECTORS**

- 7.1 Authority of the Board and delegation
  - 7.1.1 The authority of the Board to manage and direct the business and affairs of the DoQI, as set out in section 66(1), is not restricted in this MOI.
  - 7.1.2 The Board may delegate any of its powers to Board-appointed committees consisting of such Board members or other persons as it deems fit, shall appoint chairpersons for such committees, and determine the performance areas and indicators to be reported to it by the committees.
  - 7.1.3 Each Board committee must have a terms of reference dealing with its composition; role and purpose, functions; delegated authorities; tenure; key performance measures; meeting requirements and procedures and reporting mechanism to the Board.
  - 7.1.4 The Board or a committee of the Board may delegate to management of the DoQI any of its powers upon such terms and conditions as is deemed fit, and may withdraw such powers,
  - 7.1.5 Notwithstanding that it may afterwards be discovered that there has been some defect in the appointment or continuance in office of a Director or person acting as a Director, bona fide decisions by the Board or by any person acting in good faith as a Director of the DoQI are as valid as if every such person had been duly appointed, were qualified and continued

to be a Director or were entitled to vote, as the case may be.

- 7.1.6 The board remains accountable for the governance and leadership of the DoQI, irrespective of however and whomever it delegates its authority to.

## 7.2 Composition of the Board

7.2.1 The Board, which will also be known as a board of governors, consists of a maximum of 6 (six) active Directors, one of whom is an executive director responsible for quality and improvement organization wide, the other director being the Executive Head of the DoQI, both on an ex-officio basis, exclusive of other ex officio directors, all of whom have attained the Chartered level of membership. Transitional measures as envisaged in 7.4.1 and 7.7 shall apply. One of the incorporating directors of the DoQI or his successors will be an active member of the board, whilst two of the incorporating directors or their successors will remain inactive members until the Forum otherwise decides, in consultation with the board of the DoQI.

7.2.2 The Forum shall be represented on the Board permanently by a member who shall be nominated directly by the Forum, to the exclusion of the process stated in 7.4. Such member shall be a non-executive director, and shall be eligible for election for the role as Chair in line with 7.4.

7.2.3 The Board may from time to time in its sole discretion identify other executive positions that qualify for ex officio participation as officials of the Board, but such members exercise no voting rights.

7.2.4 A Director may resign from office by notice in Writing to the Board.

## 7.3 Rotation of non-executive Directors

7.3.1 One third (1/3) of the non-executive Directors of the DoQI retires from office at the end of the 6<sup>th</sup> annual General Meeting. If the number of non-executive Directors is not three or a multiple of three, the number nearest to one-third (1/3) retires from office.

7.3.2 Retiring non-executive Directors may, subject to recommendation by the Board, stand for re-election.

## 7.4 Appointment, nomination and election of non-executive Directors

7.4.1 The first directors shall be appointed by the Director who is an incorporator of the DoQI, on such discretionary basis as he may deem, but for a term not exceeding 72 (seventy two) months, after which the provision of 7.3 will take effect.

7.4.2 Any casual vacancy occurring on the Board between annual General Meetings may be filled by the Board if the number of remaining Directors are at the minimum or above, but must be filled by the Board if the number of remaining Directors falls below the minimum.

7.4.3 A non-executive director who has been appointed by the Board in terms of 7.4.2 must stand down at the next annual General Meeting and may, subject to recommendation by the Board, stand for re-election.

7.4.4 Subject to 7.4.2, vacancies in non-executive Director positions are filled by Member elections at the annual General Meeting.

7.4.5 Prior to the annual General Meeting contemplated in 7.3.1, the Board by notice to Members calls for the nomination of candidates from the Members in the manner and in the form prescribed by the Board. The Board may review and amend the nomination process and criteria from time to time. A shortlist of candidates is decided on by the Board in its sole discretion for recommendation to Members for election at the annual General Meeting. In determining such shortlist the Board follows due and fair process and takes into account the skills, knowledge, experience and demographic requirements of the Board.

7.4.6 The Board includes in the notice of the annual General Meeting the names

of the short-listed candidates, together with their curricula vitae and such further information as the Board deems necessary to enable Members to exercise an informed vote.

- 7.4.7 The nomination of candidates by Members is subject to 7.4.5 and no nominations by Members made outside the set process are allowed.
- 7.4.8 Candidates who are absent from the annual General Meeting are not eligible to be voted in without having rendered prior apologies to the DoQI in advance of the meeting together with sound reasons for absence.
- 7.4.9 The election by Members at the annual General Meeting 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. Each Member present in person or by proxy is entitled to vote in favour of as many candidates as there are vacancies.
- 7.4.10 Voting for non-executive Directors is conducted by means of a secret ballot.
- 7.4.11 A vacancy is filled only if 50+1% of the voting rights exercised support the candidate. The candidate with the most votes will be deemed to be elected.
- 7.4.12 If at any General Meeting at which an election of non-executive directors ought to take place the offices of the retiring non-executive directors are not filled, unless it is expressly resolved not to fill such vacancies, the meeting shall stand adjourned and the provisions of clause 6.7.4 shall apply *mutatis mutandis* to such adjournment, and if at such adjourned meeting the vacancies are not filled, the Board shall fill the vacancies by round-robin subject to re-election of those directors at the next annual General Meeting.
- 7.4.13 The newly elected Chair of the board which has been elected at the General Meeting in accordance with 7.4.9 and 7.4.10 shall convene the first meeting of the new board within 10 (ten) working days of the election, for the sole purpose of inducting all the board members in the business of the DoQI. All the members must undergo this induction simultaneously prior to taking office.
- 7.4.14 To facilitate a smooth handover between outgoing and incoming boards, the outgoing board shall dedicate the last working week of its official term for the sole purpose of handing over to their successors in the incoming board. The incoming board and members shall avail themselves during this handover period. The hand over process can be handled in any effective manner.

## 7.5 Disqualification of Directors

A Director ceases to hold office in the event of the Director:-

- 7.5.1 ceasing to be a Member of the DoQI;
- 7.5.2 becoming ineligible or disqualified to be a Director by virtue of any of the provisions of the Companies Act;
- 7.5.3 being removed by a resolution of the Members as provided for in section 71;
- 7.5.4 failing to attend 50% (fifty percent) of meetings of the Board or its committees in 1 (one) financial year and the Board determines in its sole discretion that it is without good cause;
- 7.5.5 having a material interest in any contract or proposed contract with the DoQI or in a matter before the Board and failing to declare such interest and the nature thereof in the manner required by the Companies Act and this MOI;
- 7.5.6 loses the level of membership, however this happens and also in terms of the applicable membership rules, required to be a director,
- 7.5.7 In the case of an executive director, when he vacates the executive position,

## 7.6 Proceedings of the Board

- 7.6.1 The Board may meet in person or via any electronic communication, or in combination, for the dispatch of business, adjourn and otherwise regulate their meetings at such times and places as it deems fit. The authority of the Board 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 MOI.
- 7.6.2 The authority of the Board to determine the manner and form of providing notice of its meetings, as set out in section 73(4) is not limited or restricted by this MOI.
- 7.6.3 The authority of the Board to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) is not limited or restricted by this MOI.
- 7.6.4 The right of Directors to requisition a meeting of the Board, as set out in section 73 (1), may be exercised by at least 50% of the Directors.
- 7.6.5 The quorum necessary for the transaction of the business of the Board is a majority of the number of Directors in office,
- 7.6.6 Questions arising at any meeting are decided by a majority of votes. Each Director has one vote on a matter before the Board, except that the executive directors may not vote on matters that fall within their respective executive portfolios.
- 7.6.7 Subject to the provisions of section 75, in respect of Directors' conflicts of interests:
- 7.6.7.1 All Directors must at the first Board meeting of each year or at the first Board meeting that the Director attends complete an interest declaration in the format agreed by the Board and submit the forms to the Chair; or confirm that there are no changes since the previous declaration.
- 7.6.7.2 At every Board meeting a declaration of conflict of interest must be made in the manner and form agreed by the Board in regard to all items for consideration before the Board.
- 7.6.7.3 A Director may not vote in respect of any matter tabled at the Board in which the Director has a material interest, or on any matter arising therefrom and if a vote is exercised contrary to this, the vote is not counted.
- 7.6.7.4 The Director must not take part in the consideration of the matter and must excuse themselves from the meeting immediately after making the required disclosure.
- 7.6.8 While being absent from the meeting in terms of 7.6.7.4, the Director:
- 7.6.8.1 will be regarded as being present for the purpose of determining whether a sufficient number of Directors are present to constitute a quorum; and
- 7.6.8.2 will not be regarded as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted.
- 7.6.9 Subject to the provisions of the Act, a round-robin resolution in Writing adopted by the majority of Directors is as valid and effective as if it had been passed at a duly called and constituted meeting of the Board or its committee as the case may be, provided that each Director has received notice of the matter to be decided. An adopted round-robin resolution may consist of multiple hard or electronic copies of the same resolution, each Signed by the Chair.

- 7.6.10 If at any meeting the Chair is not present within 10 (ten) minutes after the time appointed for holding the same, the Directors present may elect one of their members to chair the meeting until it is concluded.
- 7.7 The first Chair of and the first board and Country chapter Chairs
- 7.7.1 The first Chair of the first board, alternatively to be referred to as the President, shall, consistent with 7.4.1, be or be appointed by a director who is one of the incorporators of the DoQI.
- 7.7.2 The director who is the incorporator of the DoQI, if not the one contemplated in 7.7.1, may also appoint the first Chairs of the Country Chapters of the DoQI, in consultation with or on recommendation of the chair if different from the one contemplated in 7.7.1, on such discretionary basis and for a term as he may determine, after which the provision of 2.7 and 6.9 will take effect.
- 7.8 Continuity and resilience of the DoQI
- 7.8.1 The director who is one of the incorporators of the DoQI shall serve as the chair until the first directors are appointed in accordance with 7.4.1 and this 7.8.1, and shall thereafter have the authority to guide the first board during its term. This director may also exercise authority vested in clause 7.4.1 and this 7.8 during the term of the first board, and to exercise all authority vested in the board should the events as contemplated in 7.5 occur during the term of the first board..
- 7.8.2 To safeguard the continuity and resilience of the DoQI, the board of the Forum shall automatically and immediately nominate a director to assume the authority of the board of the DoQI for a term not exceeding 12 (twelve) months in instances where the board of the DoQI is unavailable, unable or is in no position to exercise its normal functions in terms of clause 7. This director shall, prior to the expiration of this 12 month term, plan and execute all processes to effect the election of a new board of the DoQI, where after the interim director shall hand over all the responsibilities to the new board within 1 (one) month of the new board taking office.
- 7.9 Accounting Records and Annual Financial Statements
- 7.9.1 The Board causes accounting records as required by section 28 to be kept.
- 7.9.2 The accounting records are kept at the registered office of the DoQI or at such other place or places as the Board decides, and are always open for inspection by the Directors.
- 7.9.3 The Board determines from time to time whether, to what extent, at what times and places and under what conditions the accounting records of the DoQI shall be open to inspection by Members, and no Member has any right to inspect any accounting records or documents of the DoQI except as conferred by the Companies Act and/or other applicable legislation.
- 7.9.4 The Board, in accordance with the Companies Act, ensures the preparation and tabling at the annual General Meeting as a minimum the matters referred to in 6.7.1 and performs all duties in relation to annual financial statements, accounting records and auditors in accordance with the Companies Act and other applicable legislation. A copy of the annual financial statements which are to be tabled at the annual General Meeting, is sent to every Member, or posted on the DoQI website and a notice sent to members to access the information, not less than 15 (fifteen) Business Days before the date of the meeting.

## **8. NOTICES TO MEMBERS**

- 8.1 If a manner of delivery of a document, record, statement or notice is prescribed in terms of this MOI or the Companies Act:
- 8.1.1 it is sufficient if the person required to deliver such a document, record, statement or notice does so in a manner that satisfies all of the substantive

requirements as prescribed; and

8.1.2 any deviation from the prescribed manner does not invalidate the action taken by the person delivering that document, record, statement or notice, unless the deviation-

8.1.2.1 materially reduces the probability that the intended recipient will receive the document, record, statement or notice; or

8.1.2.2 is such as would reasonably mislead a person to whom the document, record, statement or notice is, or is to be, delivered.

8.2 If, in terms of this MOI or the Companies Act, a notice is required or permitted to be given or published to any person, it is sufficient if the notice is transmitted electronically directly to that person in a manner and form such that the notice can conveniently be printed by the recipient within a reasonable time.

8.3 Any notice, document or statement sent in terms of this MOI or the Companies Act shall be deemed to have been delivered on the date and time determined in accordance with Table CR3 in the regulations in terms of the Companies Act.

## **9. COMPLIANCE WITH SECTION 30B OF THE INCOME TAX ACT**

9.1 The Board consisting of more than three Directors who are not related to one another accept the fiduciary responsibility of the DoQI.

9.2 The DoQI is prohibited from distributing any of its funds or assets to any person or entity, otherwise than in the course of undertaking its objects, such as through commercial, affiliation, association agreements, and the like, and is required to utilise its funds solely for the objects for which it has been established.

9.3 Any Member of the DoQI is prohibited from having any personal or private interest in the DoQI except in so far as rendering a service to the DoQI in pursuit of its objects and subject to 9.4 and 9.7.

9.4 The DoQI is prohibited from directly or indirectly distributing any surplus funds to any person, other than in terms of clause 10 of this MOI.

9.5 Substantially the whole of the activities of the DoQI shall be directed to the furtherance of its objects and not for the specific benefit of an individual member, minority or interest group.

9.6 The DoQI is prohibited from holding any share or other interest in any business, profession or occupation which is carried on by its members.

9.7 The DoQI may not pay any remuneration to any person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.

9.8 The Board undertakes to submit to the Commission a copy of any amendment to the MOI or written instrument of the DoQI within 90 (ninety) days of its amendment.

9.9 The DoQI derives most of its funding from its membership fees, donations and sponsorships by members only, subscriptions, conferences, investments, rendition or facilitation of rendition of any products and services as determined by the Board, and deemed compliant by the Commissioner of the South African Revenue Service.

9.10 The DoQI undertakes to comply with the reporting requirements as may be determined by the Commissioner of the South African Revenue Service from time to time.

9.11 The DoQI is not knowingly and will not knowingly become a party to, and does not knowingly 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.

9.12 The DoQI shall comply with the provisions of the Income Tax Act should it decide to emigrate as a tax resident from South Africa or any other country it might be a tax resident of.



## **10. DISSOLUTION OF THE DOQI**

- 10.1 The DoQI shall be dissolved by a special resolution to be effected by the Members at a duly constituted General Meeting, and approval of the Forum's board. Upon the dissolution of the DoQI, the Board shall, after making provision for the liabilities and obligations of the DoQI and the costs of dissolving the DoQI, distribute the whole of the DoQI's income (including distributed income still in its possession) and assets, in the sequential order as reflected below, to:
- 10.1.1 The Forum, then
  - 10.1.2 In the absence of the Forum, to a Non Profit entity nominated by the Board which closely furthers the objects of the DoQI as stated in paragraph 2 of this MOI, then
  - 10.1.3 As directed by the Commissioner of the South African Revenue Service, or his equivalent in the jurisdiction contemplated in 9.12.
- 10.2 No past or present Member or Director shall be entitled to any part of the net value of the DoQI after the liabilities and obligations contemplated in clause 10.1 have been satisfied.