

Memorandum of Incorporation of

Form Cor 15.1B Long Standard Form for Private Companies

- This form is issued in terms of section 13 of the Companies Act, 2008, and Regulation 15 of the Companies Regulations, 2011.
- This form may be used only to incorporate a profit company.
- A profit company may be incorporated by one or more persons.
- The Incorporators must complete this form by –
 - (a) filling in the Name of the Company, unless it is to be completed by the Commission in terms of Regulation 14 (b) (i) or (iii);
 - (b) inserting the number of directors and alternate directors in the spaces provided;
 - (c) inserting the number of authorised shares, in the space provided; and
 - (d) each signing and dating the form on a line of the Table.
- There are 11 pages in this form. If filing by paper, all 11 pages must be filed.
- This Form must be filed with Form CoR 14.1, Notice of Incorporation, and required annexures and fees.

Contacting the Commission

The Companies and Intellectual
Property Commission of South
Africa

Postal Address

PO Box 429
Pretoria
0001
Republic of South Africa
Tel: 086 100 2472

www.cipc.co.za

(Insert Name of Company) _____

which is a profit company, has _____ director(s) and _____ alternate director(s), is authorised to issue securities as described in Article 2, and is referred to in the rest of this Memorandum of Incorporation as “the Company”.

Adoption of Memorandum of Incorporation

This Memorandum of Incorporation was adopted by the incorporators of the Company, in accordance with section 13 (1), as evidenced by the following signatures made by each of them, or on their behalf.

Name and address	Identity or Registration #	Signature	Date

Article 1 - Incorporation and Nature of the Company

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) words appearing to the right of an optional check line are void unless that line contains a mark to indicate that it has been chosen as the applicable option.

The Schedules attached to this Memorandum are part of the Memorandum of Incorporation.

1.1 Incorporation –

- (1) The Company is incorporated as from _____ as a -
 - _____ private company, as defined in section 8(2)(b).
 - _____ personal liability company, as defined in section 8(2)(c).
 - _____ public company, as defined in section 8(2)(d).
- (2) The Company is incorporated in accordance with and governed by -
 - (a) the unalterable provisions of the Companies Act, 2008; and
 - (b) the alterable provisions of the Companies Act, 2008, subject to the limitations, extensions, variations or substitutions set out in this Memorandum; and
 - (c) the provisions of this Memorandum of Incorporation.

1.2 Powers of the Company

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

1.3 Memorandum of Incorporation and Company rules

- (1) This Memorandum of Incorporation of the Company-
 - _____ may be altered or amended only in the manner set out section 16, 17 or 152 (6) (b).
 - _____ 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), as set out in Part B 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) -
 - _____ is not limited or restricted in any manner by this Memorandum of Incorporation.
 - _____ is limited or restricted to the extent set out in Part B of Schedule 1.
- (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 shareholder by ordinary mail.
 - _____ in accordance with the requirements set out in Part B of Schedule 1.
- (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 shareholder by ordinary mail.
 - _____ in accordance with the requirements set out in Part B of Schedule 1.

1.4 Application of optional provisions of Companies Act, 2008

[This sub-article is not to be used in the case of a public company]

(1) 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.

_____ does elect, in terms of section 34 (2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act, 2008, to the extent set out in Part C of Schedule 1.

(2) The Company -

_____ does not elect, in terms of section 118 (1)(c)(ii), to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Companies Act, 2008, and to the Takeover Regulations provided for in that Act.

_____ elects in terms of section 118 (1)(c)(ii) to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Companies Act, 2008, and to the Takeover Regulations in terms of that Act, to the extent set out in Part C of Schedule 1.

Article 2 - Securities of the Company

2.1 Shares

(1) The Company is authorised to issue no more than –

_____ shares of a single class of common shares, each of which entitles the holder to –

- (a) vote on any matter to be decided by a vote of shareholders of the company;
- (b) participate in any distribution of profit to the shareholders; and
- (c) share in the distribution of the company's residual value upon its dissolution.

_____ the maximum number of each of the classes of shares set out in Part A of Schedule 2, subject to the preferences, rights, limitations and other terms associated with each such class, as set out in Part A of Schedule 2.

(2) The authority of the Company's Board of Directors to increase or decrease the number of authorised shares of any class of the Company's shares, to reclassify any shares that have been authorised but not issued, to classify any unclassified shares, or to determine the preferences, rights, limitations or other terms of any class of shares, as set out in section 36 (2)(b) and (3)(c) -

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

_____ is limited or restricted to the extent set out in Part A of Schedule 2.

[In the case of a public company]

(3) The shareholders of the Company -

_____ do not have any pre-emptive right to be offered and to subscribe additional shares of the company.

_____ have a common pre-emptive right to be offered and to subscribe for additional shares of the company, as set out in Part A of Schedule 3.

_____ have only such pre-emptive rights to be offered and to subscribe additional shares of the company, if any, as are set out in the preferences, rights, limitations and other terms associated with their respective classes of shares.

[In the case of a private or personal liability company]

(4) The pre-emptive right of the Company's shareholders to be offered and to subscribe for additional shares, as set out in section 39 -

_____ is unconditional, and is not limited, negated or restricted in any manner contemplated in subsection (2) of section 39 -

_____ is subject to the conditions, limitations, or restrictions set out in Part A of Schedule 3.

_____ does not apply with respect to any shares of the Company.

- (5) The authority of the Company's Board of Directors to authorise the Company to provide financial assistance in relation to the subscription of any option or securities of the Company or a related or inter-related company, as set out in section 44 -

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

_____ is limited or restricted to the extent set out in Part B of Schedule 2.

- (6) The authority of the Company's Board of Directors to approve the issuing of any authorised shares of the Company as capitalisation shares, to issue shares of one class as capitalisation shares in respect of shares of another class, and to resolve to permit shareholders to elect to receive a cash payment in lieu of a capitalisation share, as set out in section 47 (1) -

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

_____ is limited or restricted to the extent set out in Part C of Schedule 2.

- (7) Securities of the Company are to be issued -

_____ in uncertificated form, as contemplated in section 49 (2)(b).

_____ in either certificated or uncertificated form, as the Board may determine.

2.2 Debt instruments

- (1) The authority of the Company's Board of Directors to authorise the company to issue secured or unsecured debt instruments, as set out in section 43 (2) -

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

_____ is limited or restricted to the extent set out in Part D of Schedule 2.

- (2) The authority of the Company's Board of Directors to grant special privileges associated with any debt instruments to be issued by the company, as set out in section 43 (3) -

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

_____ is limited or restricted to the extent set out in Part D of Schedule 2.

2.3 Registration of beneficial interests

The authority of the Company's Board of Directors to allow the Company's issued securities to be held by, and registered in the name of, one person for the beneficial interest of another person, as set out in section 56 (1) -

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

_____ is limited or restricted to the extent set out in Part E of Schedule 2.

Article 3 - Shareholders

3.1 Shareholders' right to information

In addition to the rights to access information set out in section 26 (1), every person who has a beneficial interests in any of the Company's securities has the further rights to information, if any, set out in Part A of Schedule 2 of this Memorandum of Incorporation.

3.2 Shareholders' authority to act

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

- (2) If, at anytime, every shareholder of the Company is also a director of the Company, as contemplated in section 57 (4), the authority of the shareholders 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.

_____ is limited or restricted to the extent set out in Part A of Schedule 3.

3.3 Representation by concurrent proxies

The right of a shareholder of the Company to appoint persons concurrently as proxies, as set out in section 58 (3)(a) -

_____ is not limited, restricted or varied by this Memorandum of Incorporation.

_____ is limited, restricted or varied to the extent set out in Part B of Schedule 3.

3.4 Authority of proxy to delegate

The authority of a shareholder's proxy to delegate the proxy's powers to another person, as set out in section 58 (3)(b) –

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

_____ is limited or restricted to the extent set out in Part B of Schedule 3.

3.5 Requirement to deliver proxy instrument to the Company

The requirement that a shareholder must deliver to the Company a copy of the instrument appointing a proxy before that proxy may exercise the shareholder's rights at a shareholders meeting, as set out in section 58 (3) (c)

_____ is not varied by this Memorandum of Incorporation.

_____ is varied to the extent set out in Part B of Schedule 3.

3.6 Deliberative authority of proxy

The authority of a shareholder's proxy to decide without direction from the shareholder whether to exercise, or abstain from exercising any voting right of the shareholder, as set out in section 58 (7) –

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

_____ is limited or restricted to the extent set out in Part B of Schedule 3.

3.7 Record date for exercise of shareholder rights

If, at anytime, 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).

_____ as determined in the manner set out in Part C of Schedule 3.

Article 4 - Shareholders Meetings

4.1 Requirement to hold meetings

The Company -

_____ is not required to hold any shareholders meetings other than those specifically required by the Companies Act, 2008.

_____ is required to hold shareholders meetings, in addition to those specifically required by the Companies Act, 2008, as set out in Part A of Schedule 4.

4.2 Shareholders' right to requisition a meeting

The right of shareholders to requisition a meeting, as set out in section 61 (3), may be exercised -

_____ by the holders of at least 10% of the voting rights entitled to be exercised in relation to the matter to be considered at the meeting, as provided for in that section.

_____ by the holders of at least _____% of the voting rights entitled to be exercised in relation to the matter to be considered at the meeting, despite the provisions of that section.

4.3 Location of shareholders meetings

The authority of the Company's Board of Directors to determine the location of any shareholders 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.

_____ is limited or restricted to the extent set out in Part B of Schedule 4.

4.4 Notice of shareholders meetings

The minimum number of days for the Company to deliver a notice of a shareholders meeting to the shareholders, as required by section 62 -

_____ is as provided for in section 62 (1).

_____ is _____ business days before the meeting is to begin.

4.5 Electronic participation in shareholders meetings

The authority of the Company to conduct a meeting entirely by electronic communication or to provide for participation in a meeting by electronic communication, as set out in section 63 -

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

_____ is limited or restricted to the extent set out in Part C of Schedule 4.

4.6 Quorum for shareholders meetings

(1) The quorum requirement for a shareholders meeting to begin, or for a matter to be considered are -

_____ as set out in section 64 (1) without variation.

_____ as set out in section 64 (1) subject to a minimum of _____% in substitution for the 25% required by that section.

(2) The time periods allowed in section 64 (4) and (5)

_____ apply to the Company without variation.

_____ apply to the Company, subject to the variations set out in Part D of Schedule 4.

(3) The authority of a meeting to continue to consider a matter, as set out in section 64 (9) -

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

_____ is limited or restricted to the extent set out in Part D of Schedule 4.

4.7 Adjournment of shareholders meetings

The maximum period allowable for an adjournment of a shareholders meeting is -

_____ as set out in section 64 (13), without variation.

_____ as set out in section 64 (13), subject to the variations set out in Part E of Schedule 4.

4.8 Shareholders resolutions

(1) For an ordinary resolution to be adopted at a shareholders meeting, it must be supported by the holders of at least –

_____ 50% of the voting rights exercised on the resolution, as provided in section 65 (7).

_____ % of the voting rights exercised on the resolution, despite section 65 (7).

_____ the minimum percentage of the voting rights exercised on the resolution, as set out in Part F of Schedule 4.

(2) For a special resolution to be adopted at a shareholders meeting, it must be supported by the holders of at least -

_____ 75% of the voting rights exercised on the resolution, as provided in section 65 (9).

_____ % of the voting rights exercised on the resolution, despite section 65 (7).

_____ the minimum percentage of the voting rights exercised on the resolution, as set out in Part F of Schedule 4.

(3) A special resolution adopted at a shareholders meeting is -

_____ not required for a matter to be determined by the Company, except those matters set out in section 65 (11), or elsewhere in the Act.

_____ required, in addition to the matters set out in section 65 (11), for the matters set out in Part G of Schedule 4.

Article 5 - Directors and Officers

5.1 Composition of the Board of Directors

(1) The Board of Directors of the Company comprises of _____ directors, and _____ alternate directors, to be elected by holders of the companies securities entitled to exercise voting rights, as contemplated in section 68.

(2) In addition to the elected directors -

___ there are no appointed or *ex officio* directors of the Company, as contemplated in section 66(4).

___ there are ___ appointed, and ___ *ex officio* directors of the Company, as contemplated in section 68, to be designated in the manner specified in Part A of Schedule 5.

- (3) In addition to satisfying the qualification and eligibility requirements set out in section 69, to become or remain a director or a prescribed officer of the Company, a person –
- ___ need not satisfy any further eligibility requirements or qualifications.
- ___ must satisfy the additional eligibility requirements and qualifications set out in Part B of Schedule 5.

Each elected director of the Company serves for –

___ an indefinite term, as contemplated in section 68 (1).

___ a term of ___ years.

- (4) The manner of electing directors of the Company is -

___ as set out in section 68 (2).

___ as set out in Part C of Schedule 5.

- (5) The authority of the Company's Board of Directors to fill any vacancy on the Board on a temporary basis, as set out in section 68 (3) -

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

___ is limited or restricted to the extent set out in Part D of Schedule 5.

5.2 Authority of the Board of Directors

- (1) The authority of the Company's Board of Directors to manage and direct the business and affairs of the Company, as set out in section 66 (1)

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

___ is limited or restricted to the extent set out in Part E of Schedule 5.

- (2) If, at any time, the Company has only one director, as contemplated in section 57 (3), the authority of that director 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.

___ is limited or restricted to the extent set out in Part F of Schedule 5.

5.3 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.

___ is limited or restricted to the extent set out in Part G of Schedule 5.

- (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 25% of the directors, as provided in that section; or

___ by at least ___% of the directors, despite the provisions of 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.

___ is limited or restricted to the extent set out in Part H of Schedule 5.

- (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 not limited or restricted by this Memorandum of Incorporation.

___ is limited or restricted to the extent set out in Part H of Schedule 5.

- (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 not limited or restricted by this Memorandum of Incorporation.

___ is limited or restricted to the extent set out in Part H of Schedule 5.

- (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, are -
____ as set out in section 73 (5), without variation.
____ as set out in section 73 (5) subject to the variations set out in Part H of Schedule 5.

5.4 Director's compensation and financial assistance

- (1) The authority of the Company to pay remuneration to the Company's directors, in accordance with a special resolution approved by the Company's shareholders within the previous two years, as set out in section 66 (9) and (10) -
____ is not limited or restricted by this Memorandum of Incorporation.
____ is limited or restricted to the extent set out in Part I of Schedule 5.
- (2) The authority of the Company's Board of Directors, as set out in section 45, to authorise the Company to provide financial assistance to a director, prescribed officer or other person referred to in section 45 (2)-
____ is not limited or restricted by this Memorandum of Incorporation.
____ is limited or restricted to the extent set out in Part I of Schedule 5.

5.5 Indemnification of Directors

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

5.6 Committees of the Board

- (1) The authority of the Company's Board of Directors to appoint committees of directors, and to delegate to any such committee any of the authority of the Board, as set out in section 72 (1), and to include in any such committee persons who are not directors, as set out in section 73 (2)(a) -
____ is not limited or restricted by this Memorandum of Incorporation.
____ is limited or restricted to the extent set out in Part K of Schedule 5.
- (2) The authority of a committee appointed by the Company's Board of Directors, as set out in section 72 (2) (b) and (c) –
____ is not limited or restricted by this Memorandum of Incorporation.
____ is limited or restricted to the extent set out in Part K of Schedule 5.

Article 6 - General Provisions

Insert any further provisions desired in this or additional Articles.

Schedule 1 – Incorporation and nature of the Company

Part A

Insert—

- (a) *any 'Ring fencing' provisions as contemplated in section 15 (2) of the Act; and*
- (b) *any provisions limiting the purposes or powers of the Company, as contemplated in section 19 (1)(b) of the Act.*

Part B

Insert—

- (a) *any provisions relating to the amendment of the Memorandum of Incorporation, as contemplated in section 16 (1)(c) of the Act; and*
- (b) *any provisions relating to the Board's authority to make rules for the Company, as contemplated in section 15 (3) to (5) of the Act.*

Part C

Insert—

- (a) *any provisions to subject the Company to Chapter 3 of the Act on a voluntary basis, as contemplated in section 34 (2) of the Act; and*
- (b) *any provisions to subject the Company to Parts B and C of Chapter 5 of the Act, and to the Takeover Regulations, on a voluntary basis as contemplated in section 118 (1)(c)(ii) of the Act.*

Schedule 2 - Company Securities

Part A

Insert—

- (a) *any provisions setting out the classes of authorised shares, and maximum number of authorised shares of each class, and the preferences, rights, limitations and other terms of each class of shares, as contemplated in section 15 (2) of the Act; and*
- (b) *any provisions respecting the authority of the Board to exercise powers relating to shares, as contemplated in section 36 (3)(a) of the Act.*

Part B

Insert any provisions restricting or limiting the authority of the Board to provide financial assistance to any person in relation to the subscriptions of securities or options, as contemplated in section 44 of the Act.

Part C

Insert any provisions restricting or limiting the authority of the Board with respect to the issuing of capitalisation shares, as contemplated in section 47 (1) of the Act.

Part D

Insert any provisions restricting or limiting the authority of the Board with respect to the issuing of debt instruments, as contemplated in section 43(2) or (3) of the Act.

Part E

Insert any provisions restricting or limiting the authority of the Board with respect to the registration of beneficial interests in the Company's securities, as contemplated in section 56 (1) of the Act.

Schedule 3 - Shareholders

Part A

Insert any provisions limiting or restricting the right of shareholders to act without meeting formal requirements, as contemplated in section 57 (4) of the Act.

Part B

Insert any provisions relating to the powers of shareholders to appoint proxies, the appointment of proxies, and the powers of any such proxy, as contemplated in section 58 of the Act.

Part C

Insert any provisions respecting the fixing of a record date, as contemplated in section 59 of the Act.

Schedule 4 - Shareholders Meetings

Part A

Insert any provisions imposing a requirement to hold a shareholder's meeting.

Part B

Insert any provision limiting or restricting the authority of the Board to determine the location of shareholders meetings, or the authority of the Company to meet outside the Republic.

Part C

Insert any provision limiting or restricting the authority of the Board with respect to the use of electronic communication for shareholders meetings, as contemplated in section 63 of the Act.

Part D

Insert any provision respecting the quorum requirements for shareholders meetings, or varying the provisions of section 64 of the Act.

Part E

Insert any provision varying section 64 (13) of the Act with respect to the maximum period for adjournment of a shareholders meeting.

Part F

Insert—

- (a) *any provision establishing different requirements for adoption of an ordinary resolution for different matters;*
- (b) *any provision establishing different requirements for adoption of a special resolution for different matters; or*
- (c) *any provision imposing the requirement of a special resolution to approve any matter, as contemplated in section 65 (11) of the Act.*
- (d)

Schedule 5 - Directors of the Company

Part A

Insert any provisions establishing the rights of any person to appoint a director, or establishing the right of any person to be an ex

officio director of the Company.

Part B

Insert any provision imposing additional eligibility or qualification requirements for directors and prescribed officers of the Company.

Part C

Insert any provision establishing an alternative manner of electing directors, as contemplated in section 68 of the Act.

Part D

Insert any provision limiting or restricting the authority of the Board to temporarily fill a vacancy on the Board, as contemplated in section 68 (3) of the Act.

Part E

Insert any provision limiting or restricting the authority of the Board to manage and direct the business and affairs of the Company, as contemplated in section 66 (1) of the Act.

Part F

Insert any provision limiting or restricting the authority of a sole director to act without regard for formalities, as contemplated in section 57 (3) of the Act.

Part G

Insert any provision limiting or restricting the authority of the Board to consider a matter other than at a meeting, as contemplated in section 74 of the Act.

Part H

Insert any provision limiting, restricting or varying the authority of the Board with respect to the conduct of its meetings, as contemplated in section 73 of the Act.

Part I

Insert any provision limiting or restricting the authority of the Company to pay remuneration to its Directors, as contemplated in section 66 (1) of the Act, or limiting or restricting the authority of the Board to authorise the Company to provide financial assistance to a director or prescribed officer.

Part J

Insert any provision limiting, restricting or extending the authority of the Company to advance expenses to a director, indemnify a director, or purchase insurance to protect the Company or a director, as contemplated in section 78 of the Act.

Part K

Insert any provision limiting or restricting the authority of the Board with respect to the establishment of committees, as contemplated in section 72 of the Act.