

COMPANIES ACT, 2008
MEMORANDUM OF INCOPORATION
OF A NON-PROFIT COMPANY with members

NAME OF COMPANY:
THE SOUTH AFRICAN HEART ASSOCIATION NPC

REGISTRATION NUMBER: 2015/378385/08

OBJECTS

1. To promote public welfare through increasing awareness in, as well as improvement and development of, the life sciences pertaining to the cardiovascular system in health, disease and allied fields.
2. To promote good fellowship and positive outcomes among those with a professional interest in the treatment, study and/or research pertaining to the cardiovascular system and allied fields.
3. To represent, promote and protect the professional interests of healthcare professionals including cardiologists, cardiovascular surgeons, specialist physicians and others who have an interest in the treatment, study and/or research involving the cardiovascular system and allied fields; as well as other medical practitioners, technologists, nurses and health professionals who share similar objects to those of the Company.
4. To take an active role in establishing, improving and maintaining leading practice guidelines for quality cardiovascular healthcare delivery.
5. To encourage and promote research, teaching and training directed towards the prevention and treatment of diseases of the cardiovascular system and allied fields, through *inter alia*, providing scholarships, bursaries and awards.

**Memorandum of Incorporation of
The South African Heart Association NPC**

The South African Heart Association NPC (“Company”) is registered as a non-profit company with members.

In this Memorandum of Incorporation (“Memorandum”) –

- (a) a reference to a section by number refers to the corresponding section of the Companies Act, 2008, unless indicated otherwise in the text; and
- (b) words that are defined in the Companies Act, 2008 bear the same meaning in this Memorandum;
- (c) a member means a member in good standing as defined in article 2 below.

Article 1 – Incorporation and Nature of the Company

1.1 Incorporation

- 1.1.1 The Company is incorporated as a non-profit company, as defined in the Companies Act, 2008.
- 1.1.2 The Company is incorporated in accordance with, and governed by –
 - 1.1.2.1 the unalterable provisions of the Companies Act, 2008 that are applicable to non-profit companies;
 - 1.1.2.2 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;
 - 1.1.2.3 the applicable provisions of Schedule 1 of the Companies Act 2008; and
 - 1.1.2.4 the provisions of this Memorandum.

1.2 Objects and Powers of the Company

The objects of the Company are as set out on the cover sheet of this Memorandum and, except to the extent necessarily implied by the stated objects and the restrictions contained in section 1.2.2 of Schedule 1 of the Companies Act, the purposes and powers of the Company are not subject to any restriction, limitation or qualification (section 19 (1)(b)(ii)).

1.3 Memorandum of Incorporation and Company Rules

- 1.3.1 This Memorandum may be altered or amended only in the manner set out in section 16, 17 or 152 (6) (b).
- 1.3.2 Any resolution for the amendment of the Memorandum must be approved by the Commissioner of the South African Revenue Service.
- 1.3.3 Except to the extent that this Memorandum provides otherwise, the Company’s board of directors (“the Board”) may make, amend or repeal any necessary or incidental rules relating to the governance of the

company, as needed from time to time (section 15 (3) to (5)).

- 1.3.4 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 mail or by verified email (i.e. that has been acknowledged by the recipient or where there is an automatic 'read receipt').
- 1.3.5 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 mail or by verified email.

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.

Article 2 – Members

- 2.1 A register of members will be kept by the Company.
- 2.2 There shall be two classes of members i.e. voting and non-voting members.
- 2.3 Voting members shall each have one equal vote in any matter to be decided by the members of the Company.
- 2.4 There shall be three categories of membership:
 - 2.4.1 **Ordinary Members** shall be healthcare professionals including cardiologists, cardiovascular surgeons, specialist physicians and others who have a professional interest in the treatment, study and/or research involving the cardiovascular system and allied fields; as well as other medical practitioners, technologists, nurses and health professionals who share similar objects to those of the Company.
 - 2.4.1.1 Candidates for Ordinary Membership shall be proposed by two Ordinary Members in good standing. Membership application and proposals shall be submitted *via* the SA Heart online portal.
 - 2.4.1.2 Only Ordinary Members in good standing as defined in article 2.6 below shall be entitled to vote and hold office in the Company.
 - 2.4.2 **International Members** shall be individuals of the same profile as Ordinary Members, who are not primarily resident in the Republic of South Africa. International Members shall not be entitled to vote or hold office in the Company.
 - 2.4.3 **Honorary Members** shall be persons of distinction in medicine, who have contributed to the advancement of knowledge and/or treatment in the cardiovascular field, or others who have rendered special service to the Company.
 - 2.4.3.1 Honorary Membership may be granted by the Board on the recommendation to the Board by 5 Ordinary Members based on such policies as may be approved by the Board from time to time in this regard.
 - 2.4.3.2 The Board, after due consideration, may nominate a person so recommended for Honorary Membership and request that the nomination be ratified by members at the next General

Meeting.

2.4.3.3 Past presidents of SA Heart® are awarded honorary membership at the termination of their term and encouraged to remain active within the Company, through activities such as special projects, mentoring, and/or assisting with media requests as the Company may require from time to time.

2.4.3.4 Honorary Members who are primarily resident in the Republic of South Africa (“Local Honorary Members”) shall have the same rights as Ordinary Members i.e. they shall be voting members and be entitled to hold office in the Company. Honorary Members who are not primarily resident in the Republic of South Africa (“International Honorary Members”) shall have the same rights as International Members i.e. they shall not be voting members or be entitled to hold office in the Company.

2.5 A member in good standing is a member who has been approved by the Board and paid his/her subscriptions in terms of article 6.14. The Board may decline member applications in its discretion.

2.6 Termination of membership:

2.6.1 Every member shall remain a member until his/her membership is terminated either by his/her resignation in writing to the Board or by a decision of the Board as contemplated in terms of article 2.5 or this article 2.6.

2.6.2 Membership will be suspended if a member has not paid his/her membership fees in any given financial year.

2.6.3 Membership may be withdrawn from any category of member, should such member bring the Company into disrepute or act in any way that would constitute a breach of the Company’s Code of Ethics. Such withdrawal of membership shall be at the discretion of the Board, following due representation, consideration and deliberation informed by the principles of ethical practice and good governance.

2.6.4 No member may directly or indirectly have any personal or private interest in the Company other than its membership. Membership of any member who has such interest or do anything that may be aimed at creating such interest, will be suspended and/or withdrawn as and when such interest comes to the attention of the Board.

2.6.5 Membership may be reinstated, upon application to the Board, on payment of membership fees in arrears and/or at the discretion of the Board (as may be required under the circumstances).

Article 3 – The duties, powers, responsibilities of the Board

3.1. The business and affairs of the Company shall be managed under the direction of the Board, which has the authority to exercise all of the powers and perform any of the functions of the Company, except to the extent that the Companies Act, 2008 or this Memorandum provides otherwise.

3.2. The duties, powers, responsibilities and function of the Board shall inter alia be to –

3.2.1. accept overall fiduciary responsibility of the Company, which includes to –

3.2.1.1. adhere to the legal principle that its members’ fiduciary duties are owed to the Company itself and not to the constituencies by which they are appointed;

- 3.2.1.2. exercise all powers of the Company other than those expressly reserved to the Membership in a general meeting and those delegated to the Chief Executive Officer by the Board;
- 3.2.1.3. govern, oversee, collaborate with, support and offer constructive challenge to the Chief Executive Officer and his/her team;
- 3.2.1.4. ensure that the affairs of the Company are conducted in a way that is conducive to the promotion and attainment of the objects set forth in this Memorandum and the policies issued by the Board, this being the ultimate responsibility of the Board;
- 3.2.1.5. ensure that it has an updated Board Charter and annual Board workplan in place, to ensure the effective planning and execution of the Board's duties and responsibilities;
- 3.2.2. ensure that the Company operates in a transparent and sustainable manner and that it has an appropriate corporate governance structure and ethical culture;
- 3.2.3. give strategic guidance to the Company and set the Company's strategy as well as its risk appetite;
- 3.2.4. appoint the Chief Executive Officer, any Executive Officers it considers necessary to better achieve the objects of the Company and members of the Executive Committee; and –
 - 3.2.4.1. determine the designation, functions, remuneration and other conditions of employment for these Officers as the Board deems appropriate; and
 - 3.2.4.2. delegate the responsibility for the execution of the strategy and operations to management in accordance with the practices of good corporate governance;
- 3.2.5. keep the accounts, determine and collect subscriptions and be accountable for the expenditure of the Company;
- 3.2.6. present a financial report to the Annual General Meeting; and
- 3.2.7. implement decisions made at the Annual and Special General Meetings;

Article 4 – The composition and election of the Board

4.1 Composition of the Board

- 4.1.1 The Board shall have not less than three (3) and not more than ten (10) members, subject to the following requirements:
 - 4.1.1.1 All Board members shall be elected by Ordinary and Local Honorary Members electronically before the Annual General Meeting from candidates nominated by the Members of the Company and subsequently recommended by the Nominations Committee for election after due process and in line with the principles of good governance.
 - 4.1.1.2 All Board members shall be primarily resident in South Africa.
 - 4.1.1.3 Directors shall include person/s with financial, corporate governance and legal expertise.
 - 4.1.1.4 At least one (1) director shall be an independent director, that is he/she shall not be a connected person in relation to the Company or its members or Board members and he/she shall not have any membership, interest, position, association or relationship which, when judged from the perspective of a reasonable and informed third party, is likely to influence

him/her unduly or cause bias in his/her decision making and he/she shall have been independent to the Company for at least three (3) years at the time of his/her election.

- 4.1.1.5 The Chair of the Audit and Risk Committee shall be an independent director
- 4.1.1.6 The majority of the Board shall comprise of non-executive directors (not full-time staff members of the Company);
- 4.1.1.7 The President of the Company shall be a member of the Board.
- 4.1.1.8 The Chief Executive Officer shall be an *ex officio* member of the Board.
- 4.1.1.9 There shall not be more than two (2) Board members representing any one (1) Special Interest Group on the Board, unless the Board only comprises of three (3) Board members as envisaged in article 4.1.1, in which case there shall not be more than one (1) Board member representing any one (1) Special Interest Group.
- 4.1.1.10 The Board shall be entitled to co-opt members of SA Heart who are not Board members to assist the Board to discharge their duties as may be required from time to time, provided such co-optees is not ineligible or disqualified to be a director and shall not have voting rights on the Board.

4.2 Delegation to Board Committees

- 4.2.1 The Board shall ensure that its arrangements for delegation within its own structures promote independent judgement, and assist with the balance of power and effective discharge of its fiduciary duties, by –
 - 4.2.1.1 delegating particular roles and responsibilities to individual board members, to standing committees or to *ad hoc* committees (subject to legal requirements and what is appropriate for the achievement of the Company's objectives from time to time);
 - 4.2.1.2 accepting full responsibility for all of the responsibilities that it has not delegated to any individual board member, standing committee or *ad hoc* committee; and
 - 4.2.1.3 accepting full accountability for all of the responsibilities that it has delegated to any individual board member, standing committee or *ad hoc* committee by applying its collective mind to the information, opinions, recommendations, reports and statements presented by the relevant member or committee to the Board;
- 4.2.2 Given the Company's membership base and its resultant public interest score, the Board will appoint the following Committees:
 - 4.2.2.1 Audit and Risk Committee
 - 4.2.2.2 Social and Ethics Committee
 - 4.2.2.3 Nominations Committee
 - 4.2.2.4 Stakeholder Committee
 - 4.2.2.5 Executive Committee
- 4.2.3 Each Committee –
 - 4.2.3.1 shall comprise a minimum of two Board members;
 - 4.2.3.2 may comprise entirely of Board members;

4.2.3.3 shall be entitled to co-opt members of SA Heart who may or may not be Board members to assist the Committee to discharge their duties as may be required from time to time, provided such co-optees is not ineligible or disqualified to be a director and shall not have voting rights on such Committees;

4.2.3.4 shall be governed by a formal terms of reference approved by the Board;

4.2.4 Board members –

4.2.4.1 will each serve on at least one Committee;

4.2.4.2 may serve on any number of (including all) Committees.

4.3 Election and Appointment of Board Members:

4.3.1 A request for nominations for Board members will be sent electronically to all Ordinary and Local Honorary Members in good standing every year at least 60 calendar days before the first day of the Annual General Meeting.

4.3.2 The call for nominations will elaborate on the skillset and representatives (including president) needed and the nomination platform will facilitate nomination under these criteria.

4.3.3 All nominations will be evaluated by the Nominations Committee in accordance with a fair process and in line with good corporate governance and will be recommended for election to Members at least 15 days before the date for which the Annual General Meeting is scheduled.

4.3.4 Nominations and elections will be conducted electronically and by secret ballot.

4.3.5 Voting shall commence 15 calendar days before the date for which the Annual General Meeting is scheduled to start and shall close at 12h00 on the day of the Annual General Meeting.

4.3.6 The successful candidates in each category will be those who receive the highest number of votes for the positions required to be filled.

4.3.7 In the case of an equal vote (draw) the Nominations Committee will have a deciding vote.

4.3.8 In the event of a resignation or incapacity of a member of the Board, the remaining members of the Board may appoint a person who satisfies the requirements for election as a director of the Company until the next election (for the rest of the term of the Board member in question or on a temporary basis for the duration of the incapacity of the Board member in question, as the case may be).

4.3.9 In the event of the Company not receiving any nominations in a specific year for a position on the Board, the Nominations Committee shall recruit the required Board members with the particular skills set or representation needed from suitable sources.

4.4 Term of Office

4.4.1 All Board members, except for the president, shall be elected for a term of three (3) years and will thereafter be eligible for re-election annually, until they have served a maximum term of six (6) years. They will thereafter not be eligible for re-election until they have not been members of the Board for at least three (3) years. The president's term shall be two (2) years. After his/her term, the president may be nominated

/elected as president for one (1) more term, or as ordinary Board member, serving together for a maximum of combined 6 years in either positions.

4.4.2 A majority of the Board may at any time resolve to remove any director appointed by it in terms of article 4.1.1.10 and/or any member of a Committee appointed in terms of article 4.2.3.3 in between elections.

4.5 **Chair of the Board**

4.5.1 The Board, at its first meeting after each election, shall elect a Chair from amongst its members.

4.5.2 The Chair:

4.5.2.1 will chair meetings of the Board and preside over the Annual General Meeting of the Company;

4.5.2.2 may be the Chair of any Committee concurrently with the holding of his or her office, except the Chair shall not be the Chair of the Audit and Risk Committee;

4.6 **Meetings of the Board**

4.6.1 A meeting of the Board may be called by the Chairperson or at least two Board members.

4.6.2 The Board may conduct a meeting entirely by electronic communication, or provide for participation in a meeting by electronic communication so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

4.6.3 A majority of the Board members must be present at a meeting before a vote may be called at a meeting of the Board; each Board member has one vote on a matter before the Board; a majority of the votes cast on a resolution is sufficient to approve that resolution; and in the case of a tied vote - (i) the Chair may cast a deciding vote, if the Chair did not initially have or cast a vote; or (ii) the matter being voted on fails, in any other case (Section 73 (5)).

4.6.4 The meetings and proceedings of a Committee consisting of more than one member shall be governed by the provisions of this Memorandum regulating the meetings and proceedings of members, read with the necessary changes.

Article 5 – Affiliations

5.1 At the discretion of the Board, and subject to ratification at the next Annual General Meeting of the Company, the Company may be a full or associate member of any other companies, associations and societies that share common interests and/or offer benefits to the Ordinary Members of the Company or if such membership will further the objects of the Company, including but not limited to:

5.1.1 the World Heart Federation;

5.1.2 the Pan African Society of Cardiology (PASCAR); and

5.1.3 the European Society of Cardiology (ESC).

5.2 The Company may form alliances with other companies, associations and societies that share common

interests and/or offer benefits to the Ordinary Members of the Company or if such alliances will further the objects of the Company.

Article 6 – Finances and Administration

- 6.1. The Company will have a bank account to conduct its financial transactions.
- 6.2. The Company will be audited by an independent auditor. Auditors shall be nominated by the Board and approved by the Annual General Meeting on an annual basis.
- 6.3. The financial year will run from 1 March in one year to the last day of February of the following year.
- 6.4. The Board may decide to invest funds that are not needed for day to day running of the Company in a separate interest-bearing account of the Company
- 6.5. The Company may not directly or indirectly distribute any of its funds or assets to any person other than in the course of furthering its objects.
- 6.6. The Company shall utilize substantially the whole of its funds for the objects for which it has been established.
- 6.7. The Company may not pay to any employee, office bearer, member or other person any remuneration, as defined in Schedule Four of the Income Tax Act, which is excessive having regard to what is generally considered reasonable in the sector and in relation to the services rendered.
- 6.8. The Company shall comply with such reporting requirements as may be determined by The South African Revenue Service from time to time.
- 6.9. The Company will at no time knowingly become a party to, or knowingly permit itself to be used in, any part of an impermissible avoidance arrangement, contemplated in Part IIA of Chapter III of the Income Tax act, or a transaction, operation or scheme contemplated in section 103(5).
- 6.10. The funds of the Company shall be derived from dues collected from each member as well as from other funding sources such as endowments, gifts, grants and income from the Annual Congress.
- 6.11. The Regional Branch and Special Interest Group levies shall be collected in conjunction with the Company's annual subscriptions and distributed to the respective sub-groups on or before 30 calendar days following the end of the financial year.
- 6.12. Any member of the Board or other member acting in an official capacity on the Company's behalf may apply to be reimbursed by the Company for the time spent and for any reasonable expenses incurred in the performance of such action in accordance with the Company's formal policies in this regard.
- 6.13. Every Board member of the Company shall be indemnified by the Company against losses and expenses incurred or any other liabilities arising out of discharge of his or her official duties on behalf of the Company, whether this refers to a contract entered into or any act or deed that is done, provided that the member has acted with the requisite authority and in good faith and subject to the limitations of section 78(6).
- 6.14. An annual subscription shall be payable by members of the Company to provide funds for the carrying out of the work of the Company.
- 6.15. The amount of the subscription will be determined by the Board from time to time.

6.16. A subscription rebate will be granted to Ordinary Members on application, at the discretion of the Board.

Article 7 – Members Meetings

7.1. The Annual General Meeting

- 7.1.1. The Annual General Meeting (“meeting”) shall consist of all Ordinary and Local Honorary Members of the Company present, who are in good standing and in attendance.
- 7.1.2. The meeting shall take place annually as determined by the Board within nine calendar months of the end of the financial year of the Company at such place, date and time as the Board shall decide for the purpose of transacting the business of the Company.
- 7.1.3. Notice of the time and place of the meeting shall be circulated with the agenda at least sixty calendar days before the date on which the meeting is scheduled to take place.
- 7.1.4. A quorum for the purpose of voting on any matter, not otherwise specified in this Memorandum, shall be a minimum of twenty-five (25) Ordinary Members in good standing.
- 7.1.5. Voting by signed proxy shall be permitted (section 58 and section 62 to 64).
 - 7.1.5.1. A member’s proxy may delegate his/her proxy’s powers to another member of the Company (section 58(3)(b)).
 - 7.1.5.2. 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 (section 58 (3)(c)).
 - 7.1.5.3. The minimum number of days for the Company to deliver a notice of a members’ meeting to the members is at least fifteen business days before the meeting is to begin (section 62(1)).
- 7.1.6. If within thirty minutes of the appointed time for the meeting to begin there is no quorum:
 - 7.1.6.1. the meeting that has been called as above shall stand adjourned to a date and time within twenty-four (24) hours after the date of the said adjourned meeting without vote, notice or further motion;
 - 7.1.6.2. if at any adjourned meeting a quorum is not present within thirty minutes from the appointed time for such meeting to commence, the members who are present or represented by proxy and entitled to vote shall constitute a quorum and may proceed to transact the business of the meeting.
- 7.1.7. The meeting shall be chaired by the Chair of the Board or in his / her absence by the deputy-Chair or in his/her absence by a director appointed from amongst the members of the Board.
- 7.1.8. The business of the Company at the meeting shall incorporate the following matters, as a minimum:
 - 7.1.8.1. notification of matters of urgency (if any);
 - 7.1.8.2. confirmation, election and announcement of officials and Board members in terms of article 5.10 above;
 - 7.1.8.3. confirmation of the minutes of the last meeting;
 - 7.1.8.4. matters arising from the minutes;

- 7.1.8.5. the Chief Executive Officer's and Board Chair's report on the activities of the Company in the preceding year, including the Annual Activity of all Regional Branches and Special Interest Groups);
- 7.1.8.6. the Annual Financial Statements of the Company received from the auditors;
- 7.1.8.7. appointment of the auditors of the Company for the next period;
- 7.1.8.8. ratification of requests from the Board for conferring of Honorary Membership;
- 7.1.8.9. ratification of the formation of new Regional Branches or Special Interest Groups; and
- 7.1.8.10. other material matters.

7.2. Arrangements Applicable to All Meetings

- 7.2.1. Article 7.2 applies to the Annual General Meeting as well, unless a specific arrangement is in place for the Annual General Meeting as per paragraph 7.1 of this Memorandum.
- 7.2.2. The minimum number of days for the Company to deliver a notice of a members' meeting to the members is at least fifteen business days before the meeting is to begin (section 62(1)).
- 7.2.3. Voting by signed proxy shall be permitted (section 58 and section 62 to 64).
 - 7.2.3.1. A member's proxy may delegate his/her proxy's powers to another member of the Company (section 58(3)(b)).
 - 7.2.3.2. 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 (section 58 (3)(c)).
- 7.2.4. For an ordinary resolution to be adopted at a members meeting, it must be supported by more than 50% of the members who voted on the resolution (section 65 (7)).
- 7.2.5. For a special resolution to be adopted at a members meeting, it must be supported by at least 75 % of the members who voted on the resolution (section 65(9)).
- 7.2.6. In addition to the requirements contained in section 65(11) and in section 2 of Schedule 1, a special resolution is needed to approve (section 65(12)) the –
 - 7.2.6.1. purchasing of any fixed property by the Company;
 - 7.2.6.2. signing of any guarantee on behalf of the Company; and
 - 7.2.6.3. signing of any lease for longer than 12 months.
- 7.2.7. The Company may conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication (section 63).

Article 8 – Dissolution

- 8.1. Upon dissolution of the Company, its net assets must be distributed in the manner determined in accordance with Item 1(4)(b) of Schedule 1 of the Companies Act, 2008.
- 8.2. The Company shall be deregistered if, at any time, its members in good standing are less than 11 (eleven) Ordinary Members.

- 8.3. Deregistration of the Company may be effected by a 75% majority vote of all Ordinary Members in good standing present at the final General Meeting.
- 8.4. Any resolution for the winding up or deregistration of the Company must be approved by the Commissioner of the South African Revenue Service.
- 8.5. On dissolution or liquidation, the excess funds and remaining assets of the Company must be transferred to one or more of the following:
 - 8.5.1. a similar organization incorporated or established in the Republic of South Africa which has been approved as a Public Benefit Organization in terms of section 30 of the Income Tax Act;
 - 8.5.2. an organization established under any law which is exempt from tax in terms of section 10(1)(c) of the Income Tax Act whose sole or principal object is the carrying on of an approved public benefit activity;
 - 8.5.3. a department of State or Administration in the national, provincial or local sphere of the government of South Africa.