



**Republic of South Africa**

**Companies Act, 2008**

**MEMORANDUM OF INCORPORATION FOR A NON-PROFIT COMPANY**

**Name of company: RECREATION AVIATION ADMINISTRATION – SOUTH AFRICA NPC**

**The shortened name of the Company is: RAASA NPC**

**Registration No: 2008/017887/08**

## 1. INTERPRETATION

- 1.1 Expressions defined in the Companies Act, or any statutory modification thereof, in force at the date on which this MEMORANDUM OF INCORPORATION becomes binding on the Company shall, if not clearly inconsistent with the subject or context, have the meanings so defined; and
- 1.2 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 females and words importing persons shall include corporate bodies.
- 1.3 In this Memorandum of Incorporation except if it is indicated otherwise in the context:
- 1.3.1 **“Aero Club”** means the Aero Club of South Africa (Association incorporated under section 21 of the old Companies Act) Registration Number: 1936/07537/08;
- 1.3.2 **“The board”** means the board of directors of RAASA NPC;
- 1.3.3 **“CEO”** means the Chief Executive Officer of the company;
- 1.3.4 **“Companies Act”** means the Companies Act, Act No.71 of 2008 as amended and any and every other statute or ordinance from time to time in force concerning companies and the Scheme, or any part thereof, and necessarily affecting the Company;
- 1.3.5 **“Company”** means Recreation Aviation Administration-South Africa NPC;
- 1.3.6 **“Connected person”** means-
- (a) in relation to a natural person-
    - (i) any relative; and
    - (ii) any trust of which such natural person or such relative is a beneficiary;
  - (b) in relation to a trust-
    - (i) any beneficiary of such trust; and
    - (ii) any connected person in relation to such beneficiary
  - (c) in relation to a connected person in relation to a trust (other than a collective investment scheme in property shares managed or carried on by any company registered as a manager under section 42 of the Collective investment Schemes control Act, 2002, for purposes of Part

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V of that Act), includes any other person who is a connected person in relation to such trust.

1.3.7 **MOI** means this Memorandum of Incorporation;

1.3.8 **“Register”** means the register of the Directors updated in terms of the Act;

1.3.9 **“Republic”** means the Republic of South Africa;

1.3.10 **“SACAA”** means the South African Civil Aviation Authority.

1.3.11 **“DCA”** means the Director of Civil Aviation.

## **2. INTRODUCTION**

2.1 If the provisions of this MOI are in any way inconsistent with the provisions of the Act, the provisions of the Act shall prevail, and this MOI shall be read in all respects subject to the Act.

2.2 Notwithstanding the omission from this MOI of any provision to that effect, the Company may do anything which the Companies Act empowers a company to.

2.3 Should any translation of the MOI contradict the version or any amendment hereof duly registered at the Companies and Intellectual Property Commission, the meaning and application of the registered version shall apply.

## **3. NON-PROFIT COMPANY**

The Company is a Non-Profit Company and the provisions of the Companies Act that are applicable to non-profit Companies shall apply to the Company.

## **4. MEMBERS**

As contemplated in Item 4 (1) of Schedule 1 of the Act, the Company is not required, and indeed does not have, Members.

## **5. MAIN PURPOSE AND OBJECTS OF THE COMPANY**

5.1 The main purpose of the Company is to act as a Non-Profit Designated Body in terms of the Civil Aviation Regulations 1997, for the benefit of sport and recreational aviation in South Africa.

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- 5.2 The main objects of the Company are as follows:
- 5.2.1 To act for SACAA with regard to the regulations affecting sport and recreational aviation and to liaise with the non-profit bodies representing sport aviation.
  - 5.2.2 To receive monies from SACAA to enable it to carry out its functions.
  - 5.2.3 To act on behalf of SACAA and the Aero Club in carrying out the functions as designated to it by the Director of Civil Aviation in terms of the Civil Aviation Act and the Civil Aviation Regulations, specifically with regard to the functions that affect sport and recreational flying.
  - 5.2.4 To operate, manage and promote an administration office in order to properly carry out any function designated or delegated by SACAA.
  - 5.2.5 To carry out any other functions for the benefit of sport and recreational aviation in South Africa, including:
    - 5.2.5.1 Establishing safety standards relating to aviation recreation;
    - 5.2.5.2 Exercising control over an aviation recreation organisation designated under the provisions of Part 149 of the Civil Aviation Regulations;
    - 5.2.5.3 Determining standards for the operation or airworthiness of aircraft involved in aviation recreation;
    - 5.2.5.4 Issuing special flight permits;
    - 5.2.5.5 Determining standards for the licensing of personnel involved in aviation recreation;
    - 5.2.5.6 Issuing licenses to personnel involved in aviation recreation; and
    - 5.2.5.7 Advising the Director of Civil Aviation on any matter connected with the operation or airworthiness of aircraft or the licensing of personnel involved in aviation recreation.

## **6. AMENDMENTS TO THE MOI**

- 6.1 The Directors can correct errors in this MOI substantiated as such from objective evidence or which are self-evident errors (including, but without limitation, spelling, punctuation, reference, grammar or similar defects) in accordance with section 17(1) of the Companies Act. All other

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amendments to the MOI shall be effected in accordance with section 16(1) and 16 (2) of the Companies Act.

6.2 The Company may revise the provisions of the MOI by special resolution in terms of the Companies Act.

6.3 Any amendments to this MOI shall be submitted to the Companies and Intellectual Property Commission and the Commissioner for the South African Revenue Service.

## **7. FINANCIAL YEAR**

The financial year of the company shall commence on 1 April and terminate on the last day of March in each year.

## **8. FINANCIAL STATEMENTS**

The Company shall prepare its Financial Statements in accordance with the provisions prescribed by the Companies Act and shall have its annual Financial Statements audited.

## **9. CONDITIONS**

9.1 All donations to the company shall be irrevocable.

9.2 The company shall not receive any donations that will benefit the donor in any manner.

9.3 The company shall not carry on any business activities, including *inter alia*, ordinary trading operations for profit, speculative transactions, and dividend stripping activities.

9.4 No Director shall use the company to gain personal benefit in any contract concluded with third parties.

9.5 The funds and property of the Company, howsoever derived, shall be applied solely towards the promotion of its main object and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever, to any person; provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration

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to any officer or servant of the Company thereof in return for services actually rendered to the Company or by way of reimbursement of expenses actually incurred in attending meetings of the Company.

9.6 Upon its winding-up, deregistration or dissolution, the assets of the Company remaining after the satisfaction of all its liabilities, shall be transferred to the SACAA.

## **10 COMPOSITION OF THE BOARD OF DIRECTORS**

10.1 The number of directors shall be no less than 5 but no more than 8.

10.2 The CEO of the company shall be appointed as an ex-officio Director of the company.

10.3 The Company may from time to time at a meeting of Directors increase the number of directors.

10.4 Unless otherwise decided by a meeting of Directors any vacancy occurring on the board of directors may be filled by appointments made by the Board of Aero Club or the DCA but so that the total number of directors shall not at any time exceed the maximum number fixed in accordance with clause 10.1.

## **11 ELECTION AND APPOINTMENT OF DIRECTORS**

11.1 The board of Aero Club shall nominate and appoint a maximum of 3 directors.

11.2 If a director appointed by the board of Aero Club ceases to be a director, the board of Aero Club shall nominate and appoint a suitable candidate as director to fill the vacant position.

11.3 The DCA shall nominate and appoint a maximum of 3 directors.

11.4 If a director appointed by the DCA ceases to be a director, the DCA shall nominate and appoint a suitable candidate to replace that director.

11.5 Ex Officio director shall be appointed by the board of RAASA NPC.

11.6 Directors appointed and nominated by the Aero Club and SACAA shall not be connected to any current director of the company.

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- 11.7 The DCA shall appoint a non-executive director as an independent chairperson who is not an employee of the SACAA. The said chairperson shall possess general aviation knowledge experience. The duration of this appointment shall be set out in the letter of appointment.
- 11.8 The Directors shall be appointed for a period of (1) one year, after which they may make themselves eligible for re-appointment in terms of 11.2 and 11.4 above, at the discretion of the board of Aero Club or the DCA.

## **12 ALTERNATE DIRECTORS:**

- 12.1 The DCA and the board of Aero Club shall nominate another director to act as alternate director during a period when the director will be absent or unable to perform the duties of a director, and when such an appointment is made the alternate director will be subjected in all respects to the conditions and terms that may exist for the other Directors of the Company.
- 12.2 The alternate Directors shall exercise and discharge all the duties and functions of the Directors they represent. The appointment of an alternate Director shall cease on the happening of any event which, if he were a Director, would cause him to cease to hold office in terms of the MOI.

## **13 BORROWING POWERS OF THE BOARD**

- 13.1 The Board may, from time to time, raise or borrow from any person any sum of money for the purposes of the company subject to obtaining written approval from the DCA and the Aero Club.
- 13.2 The Board may secure the payment or repayment of the money borrowed or raised in terms of article 14.1 or the payment of any debt, liability or obligation of the company, or of a third party in such a manner and upon such terms and conditions in all aspects as they think fit. The payment of debt, liability or obligation to a third party will be limited in terms of item 5 of schedule 1 of the Companies Act.

## **14 GENERAL POWERS AND DUTIES OF DIRECTORS**

- 14.1 The business of the Company shall be managed by the directors who may exercise all such powers of the Company that are not required by the Companies Act or by this MOI to be

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exercised by the Company at any meeting of the Directors, subject nevertheless, to the provisions of this MOI and of the Companies Act, as may be prescribed by the Company at any such meeting; but no rule made by the Company at such meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

14.2 The directors may from time to time entrust and confer upon the CEO or manager for the time being such of the powers vested in them as they may think fit, and may confer such powers for such time and to be exercised for such objects and upon such terms and with such restrictions as they may think expedient; and they may confer such powers either collaterally or to the exclusion of, and in substitution for, all or any of the powers of the Directors, and may from time to time revoke or vary all or any of such powers. The CEO appointed pursuant to the provisions hereof shall not be regarded as an agent or delegate of the Directors and after powers have been conferred upon him/her by the Directors in terms hereof he shall be deemed to derive such powers directly from this article.

14.3 The directors may delegate any of their powers to committees consisting of such Director or Directors of their body or of the Company as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any rules that may be imposed on it by the directors. Save as aforesaid, the meetings and proceedings of a committee consisting of more than one Director shall be governed by the provisions of this MOI regulating the meetings and proceedings of directors.

14.4 The directors shall safeguard the company's assets.

## **15 DISQUALIFICATIONS AND PRIVILEGES OF DIRECTORS**

15.1 No director or prospective director shall be disqualified for contracting with the Company, to provide services to the Company. Such Director shall declare his interest to the Board.

15.2 Such Director shall not be entitled to vote at any board meeting or otherwise in relation to such contract and he shall not be reckoned for the purposes of constituting a quorum of Directors.

15.3 The CEO, will not have a right to vote on any matter in respect of which he has a personal financial interest or in respect of which he is personally involved.

15.4 A director shall cease to hold office as such if:

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- 15.4.1 he ceases to be a director by virtue of any of the provisions of the Companies Act or becomes prohibited from being a director by reason of any order made under the Companies Act; or
- 15.4.2 his estate is sequestrated or he files a petition for the surrender of his estate or an application for an administration order, or if he commits an act of insolvency as defined in the Insolvency Act for the time being in force, or if he makes any arrangement or composition with his creditors generally; or
- 15.4.3 he is found to be a lunatic or becomes of unsound mind; or
- 15.4.4 he is removed by a resolution of the board as provided in the Companies Act; or
- 15.4.5 he resigns his office by notice in writing to the Company; or
- 15.4.6 he is removed from office in accordance with any provisions of this MOI.

## **16 PROCEEDINGS OF DIRECTORS**

- 16.1 A director authorised by the board of a company:
  - 16.1.1 may, at any time, summon a meeting of the Board; and
  - 16.1.2 must call the meeting of the Board if required to do so by at least 2 (two) Directors.
- 16.2 The directors may convene together for the settlement of matters, adjourn and manage their meetings as they deem necessary.
- 16.3 Except if decided otherwise by the directors all their meetings must take place in the city or town where the registered office of the Company is established from time to time. A meeting of the Directors may be conducted by Electronic Communication and/or one or more Directors may participate in a meeting of the Board 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.
- 16.4 Questions arising at any meeting of the Directors shall be decided by a majority of votes, except for those matters set out in section 65(11) of the Companies Act, which shall require a Special Resolution.

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- 16.5 The directors may determine the notice period for the meetings of directors and also the manner of the notice of meetings such as by telephone, email or telefax. It is not required to give notice to a director who is outside the borders of the Republic but notice of the meeting must be given to his alternate if appointed and if he is within the Republic.
- 16.6 A quorum shall consist of four (4) Directors. For the purposes hereof a director who has authorised another Director to vote for him at a meeting in terms of article 17.8 shall be deemed to be present if the authorised Director is present at the meeting, and each Director whose alternative director is present at a meeting of directors, is deemed to be present at such meeting.
- 16.7 A resolution in writing, including through the medium of telefax or email, signed by a sole Director or by all the Directors present in the Republic, provided they are not less than are required to form a quorum, shall be as valid and effectual as if it has been passed at a meeting of Directors duly called and constituted. Where a Director is not present in the Republic, but has an alternate who is in the Republic, the resolution must be signed by that alternate. The resolution may consist of several documents; each signed by one or more Directors or their alternate.
- 16.8 A Director who is unable to attend a Directors' meeting may authorise any other Director to vote for him at that meeting, and in that event, the Director so authorised shall have a vote for each director by whom he is authorised to vote for in addition to his own vote. If both the alternate director and the director authorised are simultaneously present at the meeting, the alternate director shall not be entitle to vote on behalf of the absent director. Authority granted in terms of this Article must be in writing (this may take the form of an email, telefax, telegram or cable) and must be handed to the person presiding at the meeting at which it is to be used.
- 16.9 If at any meeting the chairperson is not present within fifteen (15) minutes after the time appointed for holding it, the directors present at the meeting may choose any director to chair the meeting.

## **17 CONFLICT OF INTEREST**

- 17.1 The Directors shall disclose any conflicts of interest on an annual basis or as they arise.

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17.2 The Directors shall on appointment declare all employment, positions, offices, allegiances, interests or any activities, which may compromise their independence in carrying out their duties on the Board.

## **18 NOTICES: ELECTRONIC NOTIFICATION**

18.1 A notice by the Company to a Director will be valid if it is handed over to the Director personally or sent by prepaid mail to the registered address noted in the Directorship register.

18.2 A notice, if it is sent via prepaid mail, will be regarded as delivered on the day that follows the day on which the envelope duly addressed is handed in at the post office.

18.3 It is sufficient if the notice is transmitted electronically directly to the Directors in a manner and form such that the notice can conveniently be printed by the recipient within a reasonable time and at a reasonable cost.

18.4 If a certain number of days' notice is given or if the notice stretches over a period of time, the day on which the letter were handed in at the post office must not be added to the period of notice.

## **18 REMUNERATION OF DIRECTORS**

19.1 The director may be paid all travelling, accommodation and other expenses (*in connection to the performance of their duties*) properly incurred by them in or about the performance of their duties as directors including those of attending and travelling to and from meetings of directors or any committee of the directors. Travelling expenses will be subject to section 78(3).

19.2 The directors may determine extra remuneration and pay any director who serves on any committee or who devotes special attention to the business of the company, or otherwise, performs services which in the opinion of the directors are outside the scope of the ordinary duties of a director.

## **20 INDEMNITY**

20.1 The Company may:

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- 20.1.1. Not directly or indirectly pay any fine that may be imposed on a Director, or on a Director of a related company, as a consequence of that Director having been convicted of an offence in terms of any national legislation;
- 20.1.2. Advance expenses to a Director, manager and officer of the company and every person (whether an officer of the company or not) employed by the company to defend litigation in any proceedings arising out of his service to the Company.

## **21 WINDING UP**

21.1 In the event of the company being wound up, any assets remaining after all liabilities have been settled will be transferred to the SACAA.

21.2 Special Resolution to Wind-up the Company:

21.2.1 A special resolution to wind up the company can only be considered at a Special Meeting called specifically for that purpose.

21.2.2 Such Special Meeting may only be held provided that two-thirds of the directors vote in favour of holding a Special Meeting to consider the winding up the company was passed at the previous meeting of the board, held no less than 60 days in advance of the said Special Meeting.

21.2.3 The Director of Civil Aviation is informed in writing of the intended Special Meeting, (at least 45 days prior to the date of the Special Meeting) at which the winding up action is to be considered.

## **22 RESOLUTIONS**

22.1 Special Resolution

22.1.1 A special resolution is required in respect of matters regulated in section 65(11) of the Companies Act, and requires the approval of at least 5 (Five) Directors.

22.2 Ordinary Resolution

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22.2.1 An ordinary resolution will only be valid and have an effect if it is taken by an ordinary majority of the votes present and entitled to vote at a meeting.