

THE COMPANIES ACT, NO. 71 OF 2008
(AS AMENDED)

MEMORANDUM OF INCORPORATION OF A NON-PROFIT COMPANY WITH VOTING MEMBERS
(Non-Profit Company)

NAME OF COMPANY:
THE AERO CLUB OF SOUTH AFRICA (NPC)
(Company)

REGISTRATION NUMBER:
(Registration No: 1936/07537/08)

The Company has adopted this Memorandum of Incorporation by Special Resolution passed on by the members of the Company at its 2017 Members' Meeting in substitution for the existing Memorandum and Articles of Association of the company.

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INTRODUCTION

1. The name of the Company is The Aero Club of South Africa, hereinafter referred to as "the Company."
2. The Aero Club was formed in 1920 by a group of passionate aviators as the National Body representing Aviation. The Aero Club is organised into affiliated Member Associations representing the various Recreational Aviation disciplines as independent organisations. The Aero Club is the body that represents Recreational Aviation to oversee all the regulatory requirements, and is recognised by various Governmental and International Aviation Bodies.
3. The Company is a non-profit company with voting members.
4. In this Memorandum of Incorporation-
 - (a) a reference to a section by the number refers to the 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; and
 - (c) the following words shall bear the following meaning;
 - (i) "**Act**" means the Companies Act 71 of 2008 as amended from time to time;
 - (ii) "**Annual General Meeting**" the annual general meeting of the Company called and constituted or any adjustment thereof;
 - (iii) "**Board**" means the Board of Directors of the Company;
 - (iv) "**Business day(s)**" means any day, except a Saturday, Sunday and South African public holiday;
 - (v) "**Company**" means The Aero Club of South Africa, registration number 1936/07537/08;
 - (vi) "**Members**" are subscribers to the Company who have their annual fees and shall have a right to exercise a vote as a Member in accordance with the provisions of the Act, but subject to the limitations set out in this Memorandum; and
 - (vii) "**Memorandum**" means this Memorandum of Incorporation.
 - (viii) The "**Financial Year**" will be the 12 months to the 31st December of each year.

Article 1 - Incorporation and Nature of the Company

1.1 Incorporation

- (a) The Company was incorporated previously as a company in accordance with Section 21 of the Companies Act, 61 of 1973.
- (b) The Company is incorporated as a non-profit company with voting members.
- (c) The Company is incorporated in accordance with and governed by-
 - i) the unalterable provisions of the Act that are applicable to non-profit companies;
 - ii) the alterable provisions of the Act that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in this Memorandum; and
 - iii) the provisions of this Memorandum.

1.2 Objects and Powers of the Company

- (a) The objects of the Company are to provide a platform for interaction and resources for representing Recreational Aviation in South Africa and is the body to oversee all the regulatory requirements, and is recognised by various Governmental and International Aviation Bodies.
- (b) From the date and time that the incorporation of the company was registered, as stated in its registration certificate, the Company has all of the legal powers and capacity of an individual, except to the extent that this Memorandum provides otherwise.
- (c) The following ancillary powers are also granted to the Company:
 - i) To incorporate other companies with similar objectives and/or to hold assets of the Company, which other companies are in the opinion of the Board Beneficial to the Company.
 - ii) To amalgamate with other companies who have similar objectives;
 - iii) To partake in the management, supervision or activities of any other company or entity which conduct a business with similar objectives to that of the Company and to conclude partnerships or joint ventures with such entities.
 - iv) To compensate any third party for services rendered by a third party to, for and on behalf of the Company, excluding directors of the Company.
 - v) The Board is authorised to take whatever steps may be necessary to acquire, improve and/or expand the immovable property to be owned by the Company or its subsidiaries on the understanding that any acquisition and/or improvement fall within the greater object and powers of the Company.
- (d) The ancillary powers granted to the Company may be exercised by the Board when so authorised by the Members.
- (e) The Company is subject to the provisions contemplated in section 15(2)(b) or (c) in that:
 - i) This Memorandum contains restrictive conditions applicable to the Company and any requirement for the amendment of any such condition in addition to the requirements set out in section 16 of the Act, are included in this Memorandum.
 - ii) This Memorandum may be amended in compliance with a court order.
 - iii) The court order must be affected by a resolution of the Company's Board and does not require a special resolution.
 - iv) In order for the Company to affect an amendment, the Company must file a Notice of Amendment together with the prescribed fee setting out the proposed changes.
 - v) If an amendment to this Memorandum has the effect of substituting this Memorandum with a new memorandum, the changes required also apply to the filing of the Amendment.
 - vi) If the amendment to this Memorandum has altered this Memorandum, the Company must submit a copy of the amendment to the Commission, who may require the Company to file a copy of its amended Memorandum within a reasonable time.
 - vii) This Memorandum may be amended by way of Special Resolution if it is proposed by a quorum of members as defined in 3.6.

- (f) Upon dissolution of the Company, its nett assets must be distributed as follows:
 - i) the entire nett value after costs of the Company (and its subsidiaries) must be distributed to one or more non-profit companies carrying on similar activities within the Republic, or voluntary associations, or non-profit trust:
 - ii) having objects similar to its main object; and as determined:
 - iii) in terms of the Company's Memorandum;
 - iv) by its Members, if any, or its Directors, at or immediately before the time of its dissolution; or
 - v) by the court, if the Memorandum or the Members or Directors fail to make such a determination.
 - vi) The Company must give notice in the Government Gazette of its Intended dissolution.
 - vii) The Company must comply with the remaining provisions of the Act.

1.3 Memorandum of Incorporation and Company rules/policies

- (a) This Memorandum of the Company may be altered or amended only in the manner set out in section 16, 17 of the Act.
- (b) The Company's Board may make rules or policies, amend such rules or policies, or repeal any rule or policy relating to the governance of the Company in respect of matters that are not specifically addressed in this Memorandum. Such rules or policies shall be published:
 - i) in a Constitution and/or Manual of Operations and/or Administration Standards
 - ii) be available the Company's website; and
 - iii) emailed to any then serving Director; and
 - iv) be available for inspection by any Member at the Company's principal place of business.
- (c) A rule or policy contemplated above must be consistent with the Act and this Memorandum, and shall take effect on the date specified in the rule, or within 10 (ten) days after publication thereof.
- (d) These rules or policies shall be binding until the next General Members' Meeting of the Company and permanently thereafter once it has been ratified by an Ordinary Resolution at a Members' Meeting, if required.
- (e) The provisions of section 15 of the Act shall apply to any proposed rules/policies.

1.4 Limited Application of Optional provisions of the Companies Act, 2008

The Company elects, in terms of Section 34 (2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act, 2008, only to the extent of having its annual financial statements audited each year.

1.5 Members of the Company

- (a) The Members of the Company are the persons who are defined as "Members" in this Memorandum.
- (b) Membership shall be through subscription and is open to all individuals committed to furthering the interests of the Association. Three categories of membership applies:
 - (i) Ordinary Members who will be individuals interested in participating in or benefitting from the work of the Company, and are members in their own right of at least one Member Association as defined in 1.5 (b) (ii)
 - (ii) Member Associations which is defined as any group of Ordinary Members with similar interests who are interested in their group context in in participating in or benefitting from the work of the Company.
 - (iii) Non-affiliated Members who will be individuals interested in participating in or benefitting from the work of the Company, without being part of any Member Association, they shall follow the same admission requirements as an ordinary member. They will go by the term Associate Member.
- (c) The Members are all in a single class and are eligible to vote as follows:
 - (i) Each member shall attract one vote, to be exercised by a Member present or by proxy.
 - (ii) A Member shall not have a vote if:
 - the Member is in arrears with payment of subscription fees; or
 - Membership has been suspended/or terminated from the Company at the time when votes are cast.
 - (iii) The Chairperson of the Board shall make a final determination as to which Member is entitled to cast a vote at a Members' meeting should a dispute arise between Members.

Article 2 - Rights of Members

2.1 Members' authority to act

If, at any time, a Member of the Company is also a Director of the Company as contemplated in section 57(4), the authority of the Members to act without notice or compliance with any other internal formalities, as set out in that section is limited as follows:

- (a) The Member cannot bind the Company unless authorised to do so by the Board.
- (b) The Member shall at all times remain subject to the Board Charter applicable to Directors, in addition to the conditions imposed on the Directors in the Act.

2.2 Members' right to Information

Members have the right to access information as set out in section 26 (1).

2.3 Representation by concurrent proxies

- (a) The right of a member in good standing of the Company to appoint persons concurrently as proxies is limited and restricted, as a proxy can only be given to another Member and for a particular meeting.
- (b) A proxy should be in writing and such a written proxy must clearly indicate the resolution for which it is given and the manner in which the person holding the proxy should exercise his/her vote.
- (c) A Member's proxy may not delegate the powers to another person.
- (d) A proxy must be delivered to the Company 48 (forty eight) hours prior to the time of the meeting.
- (e) The Member may authorise a proxy to decide in his/her discretion whether to exercise or abstain from voting.
- (f) A Member holding proxies will be limited to holding a maximum of five (5) proxies per voting event.

Article 3 - Members' Meetings

3.1 Requirement to hold meetings

The Company is required to hold at least 1 (one) annual Members' meeting per calendar year. The annual general meeting shall deal with and dispose of all matters prescribed by the Act, including the consideration of the annual financial statements, the election of directors and the appointment of an auditor, and may deal with any other business laid before it.

3.2 Members' right to requisition of a meeting

- (a) Members who hold at least 10% of the voting rights of the Company may, on requisition to the Board, demand a meeting.
- (b) The requisition should clearly identify the purpose for which the meeting is demanded and contain evidence of the request by 10% of the voting rights of the Company.

3.3 Location of members' meetings

Members' meetings shall be held at a venue to be decided by the Board of Directors.

3.4 Notice of members' meetings

- (a) The Board shall, on not less than 21 (twenty one) business days before the date of an intended meeting, notify Members of any such meeting.
- (b) Notification shall be given:
 - i) by way of notification to Member; or
 - ii) by way of electronic communication; or
 - iii) in a manner which the Board deems appropriate in the circumstances.
 - iv) The Board may, in its discretion, increase the record date, but not decrease such a date.

3.5 Electronic participation in members' meetings

The Board is authorised to conduct a meeting in any manner, including by electronic communication, as it may in its discretion determine.

3.6 Quorum for Members' meetings

The quorum requirement for a Members' meeting to begin shall be twenty ordinary members present as well as six Member Associations represented by Ordinary Members.

3.7 Adjournment of members' meetings

The maximum period allowable for an adjournment of a members' meeting is 21 (twenty one) business days.

3.8. Members' resolutions

- (a) For an ordinary resolution to be adopted at a Members' meeting, it must be supported by at least 50% of the Members present at the meeting.
- (b) For a special resolution to be adopted at a Members' meeting, it must be supported by at least 66% (2/3) of the Members present at the meeting.
- (c) A special resolution adopted at a Members' meeting is required to:
 - i) amend the Company's Memorandum;
 - ii) approve the dissolution or voluntary winding up of the Company;
 - iii) approve a proposed amalgamation with another entity with similar objectives;
 - iv) approve any proposed fundamental transactions as defined in the Act;
 - v) change the principal objects of the Company.

Article 4 - Directors and Officers

4.1 Composition of the Board of Directors

- (a) The Board of the Company shall comprise of a minimum of 4 (four) Directors and limited to a maximum agreed in the Constitution.
- (b) Directors are appointed for an initial fixed term period of three years, however shall be eligible for re-appointment for two consecutive or non-consecutive terms of three years.
- (c) Members will be able to nominate candidates to the Board of Directors and vote for candidates by electronic communication.
- (d) The Chairperson, Vice Chairperson, Treasurer and one other elected officer of the Board of Directors shall be appointed by the Members by simple majority.
- (e) The board of directors may elect and appoint a General Manager, who would fulfil the role of a director, but not subject to the fixed term period stipulations as defined in 4.1 (b). The General Manager needs to be a Member of the Company.
- (f) The Board may appoint a Secretary to assist the Board in fulfilling its duties as stipulated in the Board Charter.
- (g) The Board may appoint further co-opted Directors as it deems appropriate, which Directors may be appointed for a specific purpose or to fulfil a specific task, or for a specific duration. Such Directors need to be Members of the Company.
- (h) Co-opted Directors may be removed by the Board on a majority vote by the Board if such a Director has not complied with the Board Charter of the Company or any provisions of the Act or any provision of this Memorandum.

4.2 Authority of the Board of Directors

The authority of the Company's Board of Directors to manage and direct the business and affairs of the Company is limited further by the Board Charter, as amended from time to time.

4.3 Board of Directors meetings

- (a) The authority of the Company's Board is not otherwise limited.
- (b) The right of the Company's Directors to requisition a meeting of the Board may be exercised by at least 3 (three) of the Directors.
- (c) The authority of the Company's Board to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication is stipulated in the Board Charter.
- (d) The authority of the Company's Board to determine the manner and form of providing notice of its meetings, is not limited or restricted by this Memorandum.
- (e) The authority of the Company's Board to proceed with a meeting despite a failure or defect in giving notice of the meeting is limited to the extent that three Directors, being Members, are present there at.
- (f) 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 3 (three) Directors.
- (g) If any Director does not attend at least three (3) consecutive meetings scheduled during 12 (twelve) months, that Director will automatically be suspended and removed from his/her directorship. The vacancy may be filled by the Board, if required, given that the minimum directors composition as defined in 4.1 (a) is maintained.

4.4 Indemnification of Directors

- (a) The authority of the Company's Board of Directors to advance expenses to a director, or indemnify a director, in respect of the defence of legal proceedings, as set out in section 73 (3) is not limited or restricted by this Memorandum.
- (b) The authority of the Company's Board of Directors to indemnify a director in respect of liability, as set out in section 78 (5) is not limited by this Memorandum.
- (c) The authority of the Company's Board of Directors to purchase insurance to protect the Company, or a director, as set out in section 78 (6) is not limited or restricted by this Memorandum.

4.5 Officers and Committees

- (a) The Board may appoint any officers it considers necessary to better achieve the objects of the Company.
- (d) The authority of the Company's Board to appoint committees of Members, and to delegate to any such committee any of the authority of the Board, is not limited or restricted by this Memorandum.
- (e) The authority of a committee appointed by the Company's Board is not limited or restricted by this Memorandum.

Article 5 - General Provisions

- (1) The Company shall exist in its own right, separately from its Members and shall be able to own property and other possessions; and be able to sue and be sued in its own name.
- (2) The Company shall continue to exist notwithstanding any change in the composition of its membership.
- (3) The Members or Office Bearers of the Company shall not have any rights in the property or other assets belonging to the Company solely by virtue of their being members or Office Bearers.
- (4) The activities of the Company shall be carried on in a non-profit manner.