

2014 MOI		2023 MOI	
Reference	Current MOI	Reference	Amended MOI
	Definitions and interpretation	1	Definitions
			Added the following definitions:
		(iii)	“additional rate payer” or “ARP”
		(iv)	“alternate board observer”
		(v)	“alternate Director”
		(vi)	“auditor”
		(viii)	“board observer”
		(ix)	“business day”
		(xiii)	“City Improvement District” or “CID”
		(xiv)	“CID term”
		(xvi)	“Common control”
		(xvii)	“Common ownership”
		(xviii)	“Companies and Intellectual Property Commission”
		(xx)	“Company”
		(xxi)	“connected person”
		(xxii)	“Constitution”
		(xxiv)	“days”
		(xxv)	“Director”
		(xxvi)	“district”
		(xxvii)	“electronic address”
		(xxviii)	“electronic communication”
		(xxix)	“Executive Director”
		(xxx)	“exercise”
		(xxxiv)	“local community”
		(xxxv)	“member”
		(xxxvi)	“MFMA”
		(xxxvii)	“MOI”
		(xxxix)	“municipal services”
		(xli)	“person”
		(xliii)	“principal board observer”
		(xlv)	“principal objective”

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1 1.2	<p>Adoption of MOI</p> <p><u>Removed:</u> This MOI was adopted by the incorporators of the Company, in accordance with section 13(1) of the Act, as evidenced by the following signatures made by each of them, or on their behalf.</p>	<p>(xvi) “public benefit activities” (xvii) “Public Benefit Organisation” or “PBO” (xlviii) “public space” (xlix) “Rates Policy” (l) “related persons” (liv) “Systems Act” (lvii) “writing or written” (lviii) “written notice” 2 3 3.2</p>	<p>Interpretation</p> <p>Adoption of MOI</p> <p><u>Added:</u> This unique MOI as per article 3.1 was amended through a special resolution by the members of the company in accordance with section 16(1)(c) of the Act. This special resolution is attached as Annexure A.</p>
2	<p>Incorporation and nature of the Company</p>	<p>5 5.3</p>	<p>Incorporation of the Company</p> <p><u>Added:</u> Each person bound by this MOI (including the Directors of the Company), shall familiarise themselves with the relevant provisions of the Act and the provisions of this MOI.</p>
3	<p>Conflicts with the Act</p>	<p>4</p>	<p>Conflicts between the MOI and the Act</p>

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3.1	<p><u>Removed:</u> notification of conflicts Any person bound by this MOI who has formed the view or forms the view or otherwise becomes aware that any provision of this MOI or any agreement entered into by the Company contravenes or is or has become inconsistent with any provision of the Act, whether or not such provision is void or could be declared void by a court in terms of section 218(1) of the Act, or any person who incurs personal liability in terms of section 218(2) of the Act or otherwise, shall within 10 (ten) business days of forming that view or becoming aware of such contravention or inconsistency inform the Board in writing of the applicable contravention or inconsistency.</p>	4.1	<p><u>Replaced with:</u> Precedence In the event of a conflict between a provision of this MOI and –</p>
		4.1.1	<p>an alterable, optional, discretionary or elective provision of the Act, the provisions of this MOI shall prevail;</p>
		4.1.2	<p>an unalterable or mandatory provision of the Act, the provisions of the Act shall prevail to the extent of the conflict, except where the MOI imposes upon the Company a higher standard, greater restriction, longer time period, or any otherwise more onerous or restrictive requirement than would otherwise apply under the Act, in which case the relevant provision of this MOI shall prevail.</p>
3.2	<p><u>Removed:</u> no obligation to act inconsistently with the Act</p>		
3.2.1	<p>Notwithstanding anything to the contrary contained elsewhere in this MOI, no person bound by this MOI shall be required, obliged or entitled in terms of this MOI to do or omit to do something in terms of this MOI to the extent that it is inconsistent with or contravenes any provision of the Act.</p>		

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3.2.2	<p><u>Removed:</u> Any person bound by the MOI who has complied with 3.1 and 3.2.1 and has done something or has failed to do something to the extent necessary so as not to be inconsistent with or contravene any provision of the Act or to avoid personal liability under section 218(2) of the Act or otherwise in terms of the Act, but as a result thereof has contravened any provision of this MOI which is void or is declared void by a court in terms of section 218(1) of the Act, shall not for that reason alone be liable or responsible therefor under or in terms of this MOI with respect to any claim by any person bound by this MOI and entitled under or in terms of this MOI to do so, arising out of or in connection with any such act or omission.</p>		
4	Object/s of the Company	6 6.1.1.3	Objectives of the Company <u>Added:</u> environmental development including, but not limited to, greening, landscaping and upgrading of public spaces;
5	Powers of the Company <u>Expanded</u>	6.2 7	<u>Added:</u> communicating with all members and local community within the CID. Powers of the Company <u>Added:</u>
6	Fundamental transactions <u>Moved this article</u>	7.3 7.4 7.5 7.6	Company activities Limitations Responsibilities Fundamental transactions now included under Powers of the Company

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Reference	Current MOI	Reference	Amended MOI
7	Amendment of the MOI	10	Amendment of MOI
8	Rules	10.2	<u>Added:</u> No amendments may be effected to this MOI without the approval of the Executive Director
9	Membership	11	Company Rules
		12	Membership
			<u>Added:</u>
		12.2	The following persons shall be entitled to Membership of the Company:
		12.2.2	The City of Cape Town
9.4	<u>Reworded:</u> Any person who qualifies for membership in terms of 9.2 and who makes an application in terms of 9.3 must be admitted by the Board to membership of the Company.	12.4	<u>Replaced with:</u> Members shall be admitted by a resolution of the Board. The Board has no authority to deny membership to any person who qualifies for membership under article 12.2 and has duly applied for membership in accordance with article 12.3.
9.7	<u>Reworded:</u> The Company will announce or otherwise publicize at its Annual General Meeting (AGM) the names of the persons who were admitted as members of the Company in the immediately preceding financial year.	12.7	<u>Replaced with:</u> The Company must announce or otherwise publicise at its Annual General Meeting ("AGM") the names of the persons who were admitted as members of the Company, as well as those whose memberships were amended or terminated under article 13, in the immediately preceding financial year.
9.11	A member shall <i>ipso facto</i> cease to be a member of the Company:	13	This article is now dealt with under its own heading "Termination of Membership"
9.11.5	<u>Removed:</u> on any other grounds that the Board acting reasonably deems appropriate.		

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9.12	<p><u>Removed:</u> If the Board terminates a person's membership in terms of 9.11.5, such person may request the Board in writing for reasons for the termination of his membership and the Board will be obliged to provide such reasons in writing within a reasonable time from the date of receipt of the request.</p>		
9.13	<p><u>Removed:</u> A person whose membership has been terminated shall remain liable for all amounts that may at the date of termination of his membership be due by him to the Company and shall not have any claim of whatsoever nature against the Company or its officers or directors or members or be entitled to any share in the Company's property or its funds.</p>		
9.14	<p><u>Removed:</u> Additionally, a person whose membership has been terminated shall be liable to pay any outstanding amounts in respect of the additional rate which may at the date of termination of his membership be due to the City.</p>		
9.15	<p><u>Removed:</u> A member will not be liable for any liabilities or obligations of the Company, save where such member is a director (which includes an alternate director, a prescribed officer or a person who is a member of a committee of the Board) who incurs liability -</p>		
9.15.1	<p><u>Removed:</u> in accordance with the common law principles relating to:</p>		

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Reference	Current MOI	Reference	Amended MOI
9.15.1.1	<u>Removed:</u> breach of a fiduciary duty, for any loss, damages or costs sustained by the Company as a consequence of any breach by him of a duty contemplated in section 75, 76(2) or 76(3)(a) or (b) of the Act; or		
9.15.1.2	<u>Removed:</u> delict, for any loss, damages or costs sustained by the Company as a consequence of any breach by a director of a duty contemplated in section 76(3)(c) of the Act, any provision of the Act not specifically mentioned in section 77 of the Act or a breach of any provision of the MOI;		
9.15.2	<u>Removed:</u> for any loss, damages or costs suffered by the Company as a direct or indirect consequence of the director having committed any of the acts or omissions contemplated in section 77(3) of the Act;		
9.15.3	<u>Removed:</u> for wilful misconduct or wilful breach of trust;		
9.15.4	<u>Removed:</u> in terms of any provision of the Act not specifically mentioned in this 9.15.		
		13 13.1.4	Termination of Membership <u>Added:</u> subject to article 13.2, if he/she ceases to be liable for paying the additional rate by virtue of an exemption under the City's Rates Policy;

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10	Rights of members	13.1.5	<u>Added:</u> when a member has not attended a members` meeting by person or by proxy for two consecutive years starting from the last members` meeting the member was present.
		13.2	<u>Added:</u> The termination of a person's membership of the Company as contemplated in article 13.1.4 above during the course of a CID term shall be from the date of exemption. Should the property owner become liable for the additional rate in future he or she can re-apply for membership.
		13.3	<u>Added:</u> A member whose membership was terminated as per article 13.1.5 above can immediately re-apply for membership.
		14	Rights of members
		14.3.2	<u>Added:</u> Such proxy will fall away should the member attend the members' meeting
		14.3.3	<u>Added:</u> A member can elect to appoint a proxy as aforesaid:
		14.3.3.1	<u>Added:</u> with or without any direction as to how the proxy must exercise any voting right of the member; and
		14.3.3.2	<u>Added:</u> for a particular meeting, or for a specific period which may not exceed the CID term operative at the time of the granting of the proxy;

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10.8	record date for exercise of members' rights	14.3.4	<u>Added:</u> A proxy appointment must be in writing, dated and signed by the member.
		14.3.5	<u>Added:</u> Any restricted proxy appointment must indicate:
		14.3.5.1	<u>Added:</u> the meeting and/or resolution in respect of which it is given; and
		14.3.5.2	<u>Added:</u> any directions as to the manner in which the proxy holder should exercise their vote.
		14.3.6	<u>Added:</u> Any unrestricted proxy appointment must be subject to the maximum term contemplated in article 14.3.3.2 and indicate the period for which the appointment is valid.
		14.7	Record Date for exercising of Members' Rights
		14.7.1	<u>Added:</u> In the event that there is a conflict between the instructions given by a member in the proxy instrument and this MOI, the latter shall prevail.
11	Members' meetings	15	Members' meetings
11.1	requirement to hold meetings	15.1	Requirement to hold Meetings

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Reference	Current MOI	Reference	Amended MOI
11.4 11.4.1	notice of members' meetings <u>Reworded:</u> The Company must deliver a notice of each members' meeting in the prescribed manner and form to all of the members of the Company with at least 21 (twenty-one) clear days' notice in writing in the case of an AGM or a members' meeting convened to pass a special resolution, and with at least 14 (fourteen) clear days' notice in writing in the case of any other members' meeting.	15.1.6 15.2 15.2.2.2 15.2.2.3 15.5 15.5.1	<u>Added:</u> All members' meetings, including the annual general meeting contemplated in article 15.2 below, must be open to members of the local community, who must be permitted a reasonable opportunity to participate in the business of the meeting, including participating in deliberations, but not vote, on any proposed resolution. Annual General Meeting ("AGM") <u>Added:</u> noting the retirement or removal of Directors; <u>Added:</u> noting the acceptance of new members and the retirement or removal of members; Notice of Members' Meetings <u>Replaced with:</u> The Company shall deliver notice of each members' meeting to all members of the company, as well as the board observers and members of the local community, in the manner and form contemplated in article 15.5.2 below at least:
11.5	electronic participation in members' meetings	15.5.1.1 15.5.1.2 15.6	<u>Replaced with:</u> 15 business days before an AGM or a meeting convened to pass a special resolution; and <u>Replaced with:</u> 15 business days before any other members' meeting. Electronic Participation in Members' Meetings

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11.5.1	<u>Reworded:</u> A members' meeting may not be conducted by way of electronic communication.		<u>Replaced with:</u> Members' meetings may be conducted by electronic communication and members or proxies and representatives of the local community may participate in a members' meeting by way of electronic communication as contemplated in section 63(2) and 63(3) of the Act with prior approval from the Executive Director. Only members
11.5.2	<u>Reworded:</u> No member or his proxy may participate in a members' meeting by way of electronic communication.		Quorum for Members' Meetings
11.6	quorum for members' meetings	15.7	
11.6.1	<u>Reworded:</u> The quorum for members' meetings shall be 20% (twenty percent) of the members, who must be present in person or by proxy and entitled to vote.	15.7.1	<u>Replaced with:</u> The quorum for members' meetings shall be 10% of the members, who must be present in person or by proxy and entitled to vote.
11.9	voting	15.11	Votes of members
11.9.1	<u>Reworded:</u> Every member shall have 1 (one) vote for every R5 000 000(five million) of municipal valuation or portion thereof, but subject to a maximum of 10 (ten) votes.	15.11.1	<u>Replaced with:</u> Every member (other than the City), shall have one vote for every R10,000,000.00 (ten million rand), per the municipal valuation (or portion thereof), of each of their rateable properties within the CID to a maximum of 10 votes per property, provided that the total number of votes assigned to one single member or to any number of members under common ownership or control shall not exceed thirty-three and one-third (33-1/3) percent of the total number of votes which may be cast.

2014 MOI		2023 MOI	
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		15.11.2	<u>Replaced with:</u> Where individual members or members under common ownership or control own multiple properties within the CID, their vote allocation shall be subject to the limitation contemplated in article 15.11.1 and calculated as follows:
		15.11.2.1	<u>Replaced with:</u> In respect of any individual property with a municipal valuation equal to or in excess of R5,000,000.00 (five million rand), one vote per R10,000,000.00 (ten million rand) (or portion thereof), of the municipal valuation thereof, capped at ten votes per article 15.11.1; and
		15.11.2.2	<u>Replaced with:</u> In respect of any individual property with a municipal valuation under R5,000,000.00 (five million rand), one vote per R10,000,000.00 (ten million rand) (or portion thereof), of the combined municipal valuation of all such properties.
		15.11.3	<u>Replaced with:</u> Members shall inform the Company Secretary in writing in the prescribed form if they are at the time of accession, or subsequently come to fall, under common ownership or control, as contemplated in article 15.11.1. In the case of a member subsequently falling under common ownership or control, the aforementioned written notice shall be provided within 10 days.
		15.11.4	<u>Replaced with:</u> The City is assigned one vote only.

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12	Directors	16	Directors
12.1	appointment <u>Reworded and expanded:</u>	16.1	Composition of Board of Directors <u>Added:</u>
		16.1.3.	Persons eligible to serve as Directors:
		16.1.3.1.	shall be members of the Company unless co-opted by the board of directors as contemplated in article 16.1.10
		16.1.3.2.	may not be an employee
		16.1.3.3.	must be in good standing with the City;
12.1.3	Notwithstanding 12.1.2, the City, whether it is a member of the Company or not, shall be entitled to appoint) councillor/s to serve on the Board and to remove and replace such councillor, all by notice in writing to the Company. The councillor/s so appointed shall be entitled to attend and participate in, but not vote at, Board meetings.	18	This article is now dealt with under it own heading: "Councillors appointed as board observers"
12.1.6	<u>Reworded:</u> Subject to 12.1.7, directors shall serve a term of 3 (three) years, commencing from the date of the AGM at which they are appointed.	16.1.9	<u>Replaced with:</u> As required by item 5(1)(b) of Schedule 1 to the Act, at least one third of the longest serving Directors shall retire from office at every AGM. Retiring Directors shall retain office until the close or adjournment of the AGM. A retiring Director shall, however, be eligible for re-election.
12.2.4	<u>Reworded:</u> A person may be nominated as alternate to more than one director, and in such event shall have the voting rights relating to each director which he or she is representing.	16.2.2	<u>Replaced with:</u> A person may not be appointed as Alternate Director to more than one Director.
12.3	Vacation of office	16.4	Vacation of office
		16.4.1.8	<u>Added:</u> Is no longer a member.

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12.6	Meetings	16.6 16.6.6	Board meetings <u>Added:</u> Subject to article 16.6.7, board meetings shall be closed to attendance by all members and the local community. Any member of the NPC or local community may attend a board meeting subject to a written application stating the item and intended outcome at least 1 week prior to the board meeting.
		16.6.7	<u>Added:</u> In respect of attendance by person(s) contemplated in article 16.6.6, the chairperson may permit such persons to address the board on their specific item(s).
		16.6.8	<u>Added:</u> Dates of all the board meetings to be held must appear on the website.
		16.6.9	<u>Added:</u> Subject to article 16.6.7, a meeting of the Board must, unless otherwise agreed by the Directors, take place at the Company's premises.

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12.6.6	<p><u>Reworded:</u> A Board meeting may not be conducted by means of electronic communication and no director may participate in a meeting by means of electronic communication.</p>	16.6.10	<p><u>Replaced with:</u> The Board has the power to conduct a meeting entirely by electronic communication (conference call, digital remote conferencing, internet meeting, or any other format agreed upon by the Directors), or to provide for participation in a meeting by electronic communication, as set out in section 73(3) of the Act, provided that the Electronic Communication facility employed enables all persons participating in the meeting to communicate concurrently with each other and without an intermediary and to participate reasonably effectively in the meeting. Persons attending remotely shall be deemed to be present.</p>
12.9	<p><u>Removed:</u> loans</p>		
12.10	officers and committees	16.9	Officers and Committees
12.10.7	<p><u>Removed:</u> In terms of section 72 of the Act, the Company will be obliged to appoint a Social and Ethics Committee if its public interest score exceeds 500 (five hundred) points in any two of the previous 5 (five) years. The Company's public interest score must be calculated every year in accordance with Regulation 26 by the Company's auditor.</p>		
13	Financial Affairs	19	Financial Affairs
13.4	Annual Financial Statements		
13.4.4	In terms of the By-law, the Company's audited annual financial statements for the immediately preceding year must be submitted to:		

2014 MOI		2023 MOI	
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13.4.4.2	<p><u>Reworded:</u> the relevant Subcouncil, within 2 (two) months after the Company's AGM has been held,</p> <p>together with an annual report on the Company's progress in carrying out the provisions of the business plan in the preceding year to improve and upgrade the SRA.</p>		<p>Included under a new article 19.5 - Annual Report</p> <p>In accordance with section 18 of the By-law, <u>within three</u> months of the AGM, the Company must provide the Executive Director and the relevant sub-council(s) with an annual report on its progress in implementing its business plan during the previous financial year together with the audited annual financial statements and auditors report as adopted at the AGM.</p>
13.5	Additional Rate		
13.5.2	<p><u>Removed:</u> The Company shall be liable to the City for any administrative finance charges associated with transferring the additional rate to the Company.</p>		
13.6	<p><u>Removed:</u> Annual Returns Each year the Company must file an annual return in accordance with section 33 of the Act.</p>		<p>Filing of Annual Return with CIPC is a statutory requirement same as the submission of changes to the board or company auditor.</p>
		19.7	<p><u>Replaced with:</u> Annual Tax Returns</p>
		19.7.1	<p>Each year the Company must file an annual tax return in the prescribed form, signed by the Chair or Treasurer and containing, inter alia, the following:</p>
		19.7.1.1	The Company's name;
		19.7.1.2	The Company's Income Tax Reference number;
		19.7.1.3	The year of assessment;
		19.7.1.4	The date of completion; and
		19.7.1.5	All income and expenses, notwithstanding the Company's exempt status.

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13.7	<p>Implementation plan and budget</p> <p><u>Reworded and expanded:</u></p> <p>The Company shall approve its implementation plan and budget for the next financial year at its AGM and furnish it to the City by no later than 31 January, as required by the Policy and the Finance Agreement.</p>	<p>19.7.2</p> <p>19.7.3</p> <p>15.2</p> <p>15.2.2</p> <p>15.2.2.7</p> <p>19.8</p> <p>19.8.1</p> <p>19.8.2</p> <p>19.5</p> <p>19.7</p> <p>19.8</p>	<p>In the event the Company has no income to declare in any financial year, it shall submit an income tax return that contains a zero in the applicable fields.</p> <p>If the Company becomes dormant, an income tax return shall be submitted indicating that the Company has become dormant.</p> <p><u>Split:</u></p> <p>Annual General Meeting ("AGM")</p> <p>The AGM shall at least conduct the following business: approval of the implementation plan and budget for the following financial year;</p> <p><u>Split:</u></p> <p>Annual Budget - included as a new article</p> <p>The Company shall approve its annual budget for the next financial year at its AGM and furnish it to the Executive Director by no later than 31 January, as required by the Policy and the Finance Agreement.</p> <p><u>Added:</u></p> <p>The Company shall submit an adjustment budget for the third and fourth quarter of each financial year, as approved at a board meeting, to the Executive Director by the end of March of the relevant year.</p> <p><u>Added:</u></p> <p>Annual Report - refer above</p> <p>Annual Tax Returns - refer above</p> <p>Annual Budget - refer above</p>

2014 MOI		2023 MOI	
Reference	Current MOI	Reference	Amended MOI
14	Enhanced accountability and transparency	19.9	Enhanced accountability and transparency
15	Business plan	19.10	Business plan
16	Winding-up or dissolution of the Company	21	Winding-up or dissolution of the Company
New Articles			
		8	Governance And Compliance Requirements In Terms of The Income Tax Act
		8.1	No Directors shall be connected persons in relation to one another.
		8.2.	No single person shall, directly or indirectly, control the decision-making powers of the Company.
		8.3.	The income and property of the Company, however derived, shall be applied solely towards the promotion of its principal objectives. No portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus, salary, compensation or otherwise to any person who was or is an incorporator of the Company, or any officer, director or member of the Company. This prohibition does not preclude good faith payment of such person in respect of-
		8.3.1.	reasonable remuneration for goods delivered or services rendered to the Company;
		8.3.2.	reasonable expenses incurred to advance a principal objective of the Company (including reimbursements); and
		8.3.3.	amounts due and payable by the Company in terms of a bona fide agreement between the Company and another person;

2014 MOI		2023 MOI	
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		8.3.4.	any rights of that person, to the extent that such rights are administered by the Company in order to advance a stated objective of the Company; and
		8.3.5.	any legal obligation binding on the Company.
		8.4.	The Company shall not economically benefit any person in a manner which is not consistent with its principal objectives.
		8.5.	The Company shall not knowingly be a party to or knowingly permit itself to be associated with any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Income Tax Act or any other Act administered by the Commissioner.
		8.6.	The Company shall not accept any donation that may be recalled by the donor, except where the recipient fails to abide by the conditions of such donation, save where the donor is an approved PBO or a tax-exempt entity which itself carries on public benefit activity. The Company may not impose conditions which could enable such donor, or any connected person in relation to such donor, to derive some direct or indirect benefit from the application of such donation.

2014 MOI		2023 MOI	
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		8.7.	The company is not permitted to distribute its funds to any person other than to an approved PBO or similar tax-exempt entity which itself carries on public benefit activities as per article 21.2.3.
		8.8.	The Company shall comply with any reporting requirements as determined by the applicable authorities from time to time, which include the Executive Director and/or the Council under the By-Law; the Commissioner under the Income Tax Act, or the Minister of Finance or other functionaries under the Act.
		8.9.	The Company shall not use its resources directly or indirectly to advance, support or oppose any political party.
		9	Limitation of Liability
		9.1.	No person shall, solely by virtue of being an incorporator, Director of the Company, or member, be liable for any liabilities or obligations of the Company.
		17	Appointment of Company Secretary
		17.1	The Board must appoint the company secretary from time to time, who shall have the requisite knowledge of, or experience in respect of, relevant laws and be a permanent resident of the Republic.
		17.2	The Board must fill any vacancy in the office of company secretary within 60 (sixty) business days after such vacancy arises by a person whom the Directors consider to have the requisite knowledge and experience.
		20	Term Extension

2014 MOI		2023 MOI	
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		20.1	The Company may apply for the renewal of its current CID term in accordance with the procedures prescribed under section 27 of the By-law.