

MEMORANDUM OF INCORPORATION

of a

NON-PROFIT COMPANY WITH MEMBERS

known as

Yetu Infotech Collective Non Profit Company

MEMORANDUM OF INCORPORATION

of

Yetu Infotech Collective NPC

NATURE OF NON-PROFIT COMPANY

The **Yetu Infotech Collective** is a NON-PROFIT COMPANY WITH MEMBERS, as stated in clause 4.

SOLE OR PRIMARY OBJECT

The Sole or Primary Object of the NON-PROFIT COMPANY is stated in clause 6.

DIRECTORS

There shall be a minimum of THREE (3) Directors/Officers, appointed in the manner stated in clauses 23-25.

SPECIAL CONDITIONS

This Memorandum of Incorporation includes Special Conditions of the nature contemplated by sub-sections 15(2)(b) and (c) of the Companies Act, in order to ensure its compliance with the Prescribed Statutory Conditions referred to in the undermentioned Attachments to this Memorandum, namely:

Attachment "A" - The Conditions applicable to Non-profit Companies with Members, as prescribed in terms of Schedule 1 to the Companies Act, No. 71 of 2008, as amended.

(“The NPC Conditions”)

Attachment “B” - The Conditions applicable to Approved Public Benefit Organisations, as prescribed in terms of sections 30 and 18A to the Income Tax Act, No. 58 of 1962, as amended.

(“The PBO Conditions”)

Attachment “C” - The Conditions applicable to Registered Nonprofit Organisations, as prescribed in terms of the Nonprofit Organisations Act, No. 71 of 1997, as amended.

(“The NPO Conditions”)

In addition the company will also subscribe to the Principles of Cooperatives and King IV principles as set out in:

Attachment “D” - The Principles of Cooperatives first set out in 1844 by the Rochdale Society of Equitable Pioneers.






(“The Cooperative Principles”)

Attachment “E” - The King IV voluntary code of governance.

(“The King IV Principles”)

ADOPTION OF MEMORANDUM OF INCORPORATION

This Memorandum of Incorporation, including Attachments "A", "B", "C", "D" and "E" thereto, is adopted by the subscribers indicated hereunder, in their capacity as the Incorporators, as evidenced by their respective signatures, which have been affixed by them, in accordance with the requirements of Section 13 (1) of the Companies Act, No. 71 of 2008, as amended.

Name of Incorporator	Identity No.	Signature
Michael Graaf	6203022516080	
Sinenhlanhla Manqele	9512050449086	
Jaysen Naidoo	7205145034086	
Kholiswa Tyiki	8502270542084	
Mark Weinberg	7401055166089	

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1. STAKEHOLDERS VISION AND STRUCTURE

The Yetu Infotech Collective's stated aims and objects shall be:

- 1.1 Support working class community initiatives to establish and maintain secure and affordable networks that build the Internet From Below;
- 1.2 Provide progressive civil society organisations - and social movements in particular - with affordable and secure communication technology and capacity development so that they can maximise the benefits of information technologies while mitigating the risks;
- 1.3 Advocate for a communication system that is decommodified and free from commercial and state surveillance and censorship.

The Yetu Infotech Collective will perform its functions in line with these goals and is registering this non-profit Company so as to administer its funds and decision making in a more inclusive manner, commensurate with the organisation's values. The Yetu Infotech Collective will assume these functions and advance development policy through inclusive decision making structures, participating members shall meet as a Council and the representative officers comprising the leadership body shall be appointed from the Council.

The Vision of the Yetu Infotech Collective's shall be a people's internet that is user owned and controlled, decommodified, free/affordable, safe and secure - a communications network that enables a world where all the resources required for life are produced democratically in harmony with the biosphere by each according to their ability and shared according to their needs - a world where everyone enjoys equality and dignity, and are free to contribute their creativity and live in peace.

2. DEFINITIONS

Unless the context clearly otherwise indicates, words and expressions defined in the Companies Act, No. 71 of 2008, as amended, bear the same meanings when used in this Memorandum of Incorporation, save to the extent that certain words and phrases are specifically defined, as follows:

- 2.1 **"the Act"** means the Companies Act, No. 71 of 2008, as amended; and this term includes the Schedules, Regulations, and Notices prescribed thereunder from time to time, including any amendment, substitution, or re-enactment thereof.
- 2.2 **"Member Organisations"** means all formations which may from time to time enter into Membership Agreements with the Yetu Infotech Collective, as are referred to in clause 10.1.
- 2.3 **"Board of Directors"** means the Committee of Fiduciary Officers of the Yetu Infotech Collective, as it may be constituted from time to time in terms of clauses 23 to 25.

2.4 **Arbitration Foundation of Southern Africa (AFSA)** The Arbitration Foundation of Southern Africa (AFSA) is a private dispute resolution authority.

2.5 **Yetu Infotech Collective Management Team:** means the senior staff members who have been assigned to lead the organisation on a day-to-day basis.

2.6 **“Business Days”** means such number of days as may be deemed to elapse between the occurrence of two (2) events, on a basis which:

2.6.1 excludes the day on which the first such event occurs;

2.6.2 includes the day on or by which the second event is to occur; and

2.6.3 excludes any Public Holiday, Saturday or Sunday that falls on or between the days contemplated in sub-paragraphs 2.6.1 and 2.6.1.

2.7 **“Category(ies) of Officers/Directors”** means the types of Officers, which are differentiated in the manner contemplated by clause 23.2, in order to facilitate the appointment to the Board of Directors of persons who have an Organisational relationship with the designated sectors, and who satisfy the other eligibility qualifications and criteria therein specified with respect to each such type of Director; that is to say:

2.7.1 *“ex officio Director”*;

2.7.2 *“Organisational Member Representative”*; and

2.7.3 *“Associate Member”* and

2.7.4 *“Worker Member”*.

2.8 **“Commission”** means the Companies and Intellectual Property Commission established in terms of the Act.

2.9 **“Company”** means this non-profit Company namely: **Yetu Infotech Collective** (Yetu)

2.10 **“Co-opted Director/s”** means any person appointed from time to time by the Board of Directors to serve as a Director to fill a temporary vacancy as contemplated by clause 25.5.

2.11 **“Directors/Officers”** means the persons appointed, elected or co-opted as such from time to time, including any person duly appointed as a Co-opted, *ex officio* or Alternate Director.

2.12 **“File” or “Filing” in relation to a document to be lodged with the Commission** means the delivery and lodgement thereof with the Commission, in the manner and in the form prescribed by the Act.

2.13 **“Income Tax Act”** means the Income Tax Act No. 58 of 1962, as amended.

2.14 **“Month”** means a calendar month.

- 2.15 **“Member”** means an entity or person that is admitted to membership of the Yetu Infotech Collective as provided for in clause 10.1.
- 2.16 **“Memorandum”** means this Memorandum of Incorporation, including its Attachments; and the abbreviation **“MOI”** shall have an equivalent meaning.
- 2.17 **“Nonprofit Organisations Act”** means the Nonprofit Organisations Act No. 71 of 1997, as amended.
- 2.18 **“Office”** means the Registered Office of the Yetu Infotech Collective.
- 2.19 **“Organisational Member”** means an Organisation that uses Yetu services whose membership application has been accepted by the Yetu Council.
- 2.20 **“Organisational Member Representative”** means an individual person appointed by an Organisational Member to represent that Organisational Member at General Meetings of the Yetu Infotech Collective.
- 2.21 **“Membership Agreement”** means the agreement which is to be entered into between the Yetu Infotech Collective and each of its Members, Organisational Members and other stakeholder organisations, if any, in terms of which the Yetu Infotech Collective provides access to and the benefit of participation in membership activities, and to research and educational networks, including allied services, which are to be supported by or at the instance of the Yetu Infotech Collective from time to time.
- 2.22 **“Pending Member”** means an organisation or individual whose membership application has been accepted by the Board of Directions but has not yet been considered by the Council. Pending Members have full speaking rights but do not have a vote.
- 2.23 **“Prescribed Companies Act Provisions”** means the special provisions concerning non-profit Company, prescribed in terms of Schedule 1 to the Act, as set forth in Attachment “A” to this Memorandum.
- 2.24 **“Prescribed Fiscal Provisions”** means the provisions concerning Public Benefit Organisations, prescribed in terms of section 30 and section 18A of the Income Tax Act, as set forth in Attachment “B” to this Memorandum.
- 2.25 **“Public Benefit Activities”** means such activities as are from time to time defined and listed as such in the Ninth Schedule to the Income Tax Act, incorporating any such amendments or additions thereto as may be enacted or prescribed from time to time.
- 2.26 **“Republic”** means the Republic of South Africa.
- 2.27 **“Rules”** mean any such Rules as may at any time be made by the Board of Directors, in accordance with the provisions of clause 8.3 of this Memorandum.

2.28 “**Special Resolution**” means a resolution adopted with the support of at least 60% of the voting rights capable of being exercised on the resolution.

2.29 “**Worker**” refers to a person employed by the Yetu Infotech Collective in a permanent position.

3. INTERPRETATION

The interpretation of this Memorandum shall be further governed by the following provisions, viz:

3.1 Expressions with reference to writing shall include printing, lithography, photographs, electronic images, and other modes of representing or reproducing words in visible form.

3.2 References to any Act, or the Regulations prescribed thereunder, shall be deemed to denote such legislation or regulations, as they may be amended from time to time, including any re-enactment or substitution thereof.

3.3 Words importing the singular shall include the plural; words importing the masculine, feminine, or neuter, shall include the others of such genders; and words importing persons shall include juristic persons; and vice versa in each instance.

3.4 In the event of any conflict between the terms of this Memorandum and the provisions of the Act, the terms of this Memorandum shall prevail, except insofar as the Act may prescribe an Unalterable Provision that is applicable to this Yetu Infotech Collective.

4. INCORPORATION

4.1 A Non-profit Company with Membership is now deemed to be incorporated and constituted as:

YETU INFOTECH COLLECTIVE NPC

4.2 The Yetu Infotech Collective which is hereby established shall be a Public Benefit Organisation, and shall be governed and administered;

4.2.1 in accordance with the terms and conditions of this Memorandum of Incorporation;

4.2.2 for the purpose of advancing and implementing its Sole or Principal Object; and

4.2.3 in a manner and spirit that is an expression of the Founders Vision and Purpose.

5. GOVERNANCE PROVISIONS

In accordance with the provisions of the Act:

5.1 The Unalterable Provisions of the Act which are applicable to non-profit companies with members, (including the special provisions concerning non-profit companies set forth in Schedule 1

to the Act) shall be binding upon the Yetu Infotech Collective and are deemed to have been incorporated in this Memorandum.

5.2 The Alterable Provisions of the Act which are applicable to non-profit companies with members (including the special provisions concerning non-profit companies set forth in Schedule 1 to the Act) shall only be binding upon the Yetu Infotech Collective, and deemed to be incorporated in this Memorandum, to the extent and insofar as this Memorandum may not stipulate to the contrary in a manner permitted by the Act, whether by limitation, extension, variation, or otherwise.

6. SOLE OR PRINCIPAL OBJECTIVE

6.1 The Sole or Principal Objective of the Yetu Infotech Collective shall be to promote a people's internet that is user owned and controlled, decommodified, free/affordable, safe and secure - a communications network that enables a world where all the resources required for life are produced democratically in harmony with the biosphere by each according to their ability and shared according to their needs - a world where everyone enjoys equality and dignity, and are free to contribute their creativity and live in peace.

6.2 In furtherance of the aforesaid Sole or Principal Object, the Collective shall engage in such activities as may from time to time be considered appropriate and conducive to the achievement of its mission, which may include (but without limitation thereto) the following:-

6.2.1 Support working class community initiatives to establish and maintain secure and affordable networks that build the Internet From Below;

6.2.2 Provide progressive civil society organisations - and social movements in particular - with affordable and secure communication technology and capacity development so that they can maximise the benefits of information technologies while mitigating the risks;

6.2.3 Advocate for a communication system that is decommodified and free from commercial and state surveillance and censorship.

6.3 Without in any way limiting the general nature of clause 6.1 and 6.2, the Principal Object of the Yetu Infotech Collective shall include;

6.3.1 Carrying out Public Benefit Activities itself;

6.3.2 Supporting programmes related to the principal object in the form of funds, assets, services and other resources (financing, grant or donation),

6.3.3 Collaborating with allies for the purpose of achieving the Principal Object of the Yetu Infotech Collective.

6.4 Without derogating from the generality of the afore going, and for the avoidance of doubt, it is further recorded that the Yetu Infotech Collective shall be entitled, in furtherance of the sole or principal object of the organisation, to enter into agreements with Eligible Beneficiaries, for the purposes of enabling them to carry out one or more activity related to its principal objectives.

7. _____ POWERS AND STATUS

7.1 As a juristic person, and in accordance with the terms of the Act, the Yetu Infotech Collective shall have all the legal powers and capacities of an individual, except to the extent that a juristic person may be incapable of exercising any particular power or having any particular capacity, subject however to the terms of this Memorandum.

7.2 The legal powers and capacity of the Yetu Infotech Collective are qualified to the extent necessary to ensure its compliance with the undermentioned Special Conditions, which constitute restrictions, limitations, and qualifications, of the nature contemplated by section 19(1)(b)(ii) of the Act, namely: -

7.2.1 the Prescribed Companies Act Provisions concerning non-profit companies with members (“NPC’s”) as set out in Attachment “A” hereto;

7.2.2 the Prescribed Fiscal Provisions concerning Approved Public Benefit Organisations (“PBO’s”) as set out in Attachment “B” hereto; and

7.3 The income, property and human resources available to the Yetu Infotech Collective must be used and applied exclusively for the advancement of the aforesaid Sole or Principal Object; and no portion thereof may be paid or distributed, directly or indirectly, to any other person or for any other purpose; and no payment or transfer of funds or assets, may be made to, or for the benefit of any person, including an incorporator, member, director, or other officer of the Yetu Infotech Collective, whether by way of dividend, bonus, commission, remuneration, or otherwise; save that the Yetu Infotech Collective may effect payment of reasonable remuneration to any person, including any such incorporator, member, director, or other officer, in consideration of services rendered or goods delivered in the furtherance of such Sole or Principal Object; and this provision shall not preclude the reimbursement of any such person in respect of expenditures incurred with the authority of its Board of Directors, and in furtherance of the Sole or Principal Object.

7.4 Upon its winding-up, deregistration or dissolution for any reason, the assets of the Yetu Infotech Collective then remaining after the satisfaction of all its commitments and liabilities shall be given or transferred to one or more other Public Benefit Organisations having the same or similar objects as those of the Yetu Infotech Collective, as may be determined by the Members in General Meeting, with the approval of the Commissioner for the South African Revenue Service (SARS).

7.5 Any amendment to this Memorandum shall be promptly notified to the Commissioner for the SA Revenue Service, and to the Director: Nonprofit Organisations forthwith upon its adoption, as required by law.

8. ALTERATIONS, AND THE MAKING OF YETU INFOTECH COLLECTIVE RULES

8.1 This Memorandum may be altered or amended at any time by Special Resolution (i.e. resolution requiring 60% majority) duly passed by the required majority of Members, provided that no such alteration or amendment shall be competent if it would be inconsistent with the limitations on the powers of the Yetu Infotech Collective referred to in clause 7 above. Upon the adoption of any such alteration, or amendment, written Notice thereof shall be delivered to every Member and to every Board of Directors member of the Yetu Infotech Collective; and shall also be filed with the Commission in the manner required by the Act.

8.2 In accordance with the provisions of the Act, the Board of Directors or any person authorised by the Board of Directors shall have the additional power and prerogative to cause this Memorandum to be altered in any manner deemed necessary in order to correct a patent error of spelling, punctuation, reference, grammar, or similar formal defect appearing from the face of the document, by means of the delivery of a Notice to this effect addressed to each Member and to each Director/Board of Directors Member of the Yetu Infotech Collective, and by filing the prescribed Notice thereof with the Commission, in the manner required by the Act.

8.3 Should the Board of Directors deem this necessary or desirable at any time, it shall also have power at its discretion to make Rules for the Yetu Infotech Collective; but such power to make Rules shall likewise be limited and restricted to the extent necessary to ensure continued compliance with the provisions of clause 7 of this Memorandum. A copy of any such Rules shall be published, by delivering a copy thereof to each Member and to each Director/Board of Directors Member of the Yetu Infotech Collective, and by filing a copy thereof with the Commission, in the manner required by the Act.

9. ENHANCED ACCOUNTABILITY AND TRANSPARENCY

9.1 The Yetu Infotech Collective hereby elects to assume the voluntary obligation of compliance with the enhanced accountability and transparency provisions set forth in Chapter 3 of the Act, to the limited extent of the requirement for the appointment of an independent auditor, and the production of annual financial statements, in accordance with the provisions of the Act, and of this Memorandum.

9.2 Notwithstanding the afore going, the Yetu Infotech Collective may at any time elect to assume additional obligations of voluntary compliance, or it may rescind any such obligation of voluntary compliance with respect to all or any of the enhanced accountability and transparency provisions, as the Board of Directors may deem appropriate from time to time in consultation with the Yetu Infotech Collective Council.

10. MEMBERSHIP

10.1 The Membership of the Yetu Infotech Collective shall comprise such stakeholders and institutions who have completed a Membership Application that has been accepted by either the (1) Board of Directors (in the case of Pending Organisational Membership) or (2) the Management

Committee (in the case of Worker Membership and Pending Associate Membership) or (3) the Council (in the case of Organisational or Associate Membership). Membership Applications can be accepted

10.2 Unless otherwise determined by Special Resolution the Membership of the Yetu Infotech Collective shall comprise the following Classes and Categories:

10.2.1 **Founder Membership**, which shall be a Voting Category of which the sole constituent Members shall be the Incorporators or representatives of the Yetu Infotech Collective who signed this Memorandum of Incorporation of the Yetu Infotech Collective. This category will cease to exist after the first AGM of the Yetu Infotech Collective operating under this MOI and founder members will continue under the appropriate category.

10.2.2 **Organisational Membership**, which shall be a Voting Category comprising both organisations, juristic persons, and unincorporated groups (1) a significant involvement and concern with the promotion or advocacy of human rights and democracy aligned with the Vision of the Yetu Infotech Collective, (2) sharing the Yetu Infotech Collective Values (3) committing to contribute to advancing the Yetu Infotech Collective Mission, and (4) being an active user of the Yetu Infotech Collective services. The Council at their sole and absolute discretion may from time to time resolve to admit to this category of Membership.

10.2.3 **Worker Membership**, which shall be a Voting Category comprising individual persons, who (1) are on permanent employment contract with Yetu InfoTech Collective and (2) share the Yetu Infotech Collective Values. The Management Committee may from time to time resolve to admit to this category of Membership in accordance with relevant recruitment policy.

10.2.4 **Associate Membership**, which shall be a Voting Category comprising individual persons, who (1) are recognised as having special expertise and knowledge aligned with the Vision of the Yetu Infotech Collective , (2) sharing the Yetu Infotech Collective Values (3) actively contribute to advancing the Yetu Infotech Collective Mission. The Council at their sole and absolute discretion may from time to time resolve to admit to this category of Membership.

10.2.5 **Pending Membership**, which shall be a Non-Voting Category comprising individual persons, organisations, juristic persons, and unincorporated groups, who (1) have completed a Membership Application for either Organisational Membership or Associate Membership and (2) the Membership Application has been accepted by either the Board of Directors (in the case of Organisational Membership) or Management Committee (in the case of Associate Membership) at their sole and absolute discretion. Such membership will enjoy all the powers and responsibilities of other membership categories except the casting of a vote. Such membership will terminate at the sitting of the Council where the Membership Application is considered. The Council at their sole and absolute discretion may resolve to admit new Organisational or Associate members.

10.3 Further Categories of Membership may be established by Special Resolution of the Council. Any such further Category shall confer upon its constituent members such rights and prerogatives, and impose such duties and eligibility requirements as may be determined with reference thereto.

10.4 Membership of the Yetu Infotech Collective shall be considered, upon submission of a written Membership Application including:

10.4.1 an undertaking to be bound by the terms of this Memorandum; and

10.4.2 a signed Agreement which obliges the Member and the Yetu Infotech Collective to comply with codes and objectives contained therein; and

10.4.3 in the case of Organisational Members, the written application by each Member Institution a Member Representative, (with provision for an Alternate, in case of need);

10.5 The Yetu Infotech Collective shall also have the power, by ordinary resolution duly adopted by the Members in a Council Meeting, to create one or more special categories of Membership (including a Non-Voting Membership), and to accord to any such special category the rights and obligations that may then be determined by the Yetu Infotech Collective with reference thereto; and it shall similarly be entitled to dis-establish any such special category of Membership, at its discretion.

11. SUSPENSION AND CESSATION OF MEMBERSHIP

11.1 Suspension or disqualification: should any Organisational or Associate Member commit a breach of its duties and obligations in terms of its Membership Agreement, and fail to make good such default despite forty-five (45) days' written notice to this effect, then and in such event the Board of Directors shall be entitled to notify the Member of its intention to suspend or terminate the Membership of the defaulting Member concerned and to afford the Member seven (7) days to make representations to the Board as to why such suspension or termination should not be affected. Upon consideration of such representations, if any, the Board shall be entitled, at its sole and absolute discretion, to suspend or terminate the Membership of the defaulting Member. Nothing herein contained shall preclude the Board of Directors from extending a period of grace for compliance with such duties and obligations in default, to such extent, and for such reasons, as the Board of Directors may deem appropriate in the circumstances.

11.2 An Organisational or Associate member who has been notified of the Board's intention for their membership to be suspended or disqualified may request the reason for their suspension or disqualification before making further representations as contemplated in 11.1.

11.3 Organisational and Associate Membership of the Yetu Infotech Collective shall be terminated:

11.3.1 upon receipt by the Yetu Infotech Collective of the written resignation of the Member;

11.3.2 upon dis-establishment, dissolution or final liquidation of an Organisational Member, or death of an Associate; or

11.3.3 upon a determination to this effect made by the Board of Directors in accordance with the provisions of clause 11.1, in the event of default, as therein contemplated.

11.3.4 Upon receipt from a Organisational Member that their representative to Yetu Infotech Collective has been recalled as per the constitution of the member organisation or as set out in the Membership Agreement, the said representative will no longer be regarded in good standing and shall be replaced by a duly nominated / elected representative of the said organisation.

11.4 Worker Members membership will be terminated when they cease to be a permanent employee. Worker Members membership can be suspended by the Management Committee in terms laid out in relevant policy.

12. RIGHTS OF MEMBERSHIP

12.1 In addition to all other rights conferred by the Act, Membership of the Yetu Infotech Collective shall confer the following rights and prerogatives, in accordance with the relevant provisions of this Memorandum, viz:

12.1.1 Voting Members have the right to participate in the appointment of Board of Directors Members, as contemplated by clauses 23 to 25; and

12.1.2 All members have the right to receive notice of, attend, speak and vote at all General Meetings and the AGM of the Yetu Infotech Collective Council. Only Voting Members have the right to vote; and

12.1.3 All members have the right to inspect, and to receive copies of, the Annual Financial Statements and Annual Reports of the Yetu Infotech Collective; and

12.1.4 All members have the right to participate in online forums of the Yetu Infotech Collective Council. Only Voting Members have the right to vote.

13. OBLIGATIONS OF MEMBERS ON CESSATION

The cessation of Membership shall in no way release a Member from obligations for which such Member was previously liable as at the date of such cessation of Membership, in accordance with the terms of the relevant Membership Agreement; or for any other cause.

14. NON-TRANSFERABILITY OF MEMBERSHIP

Membership may not be assigned or transferred.

15. REGISTER OF MEMBERS

The Yetu Infotech Collective shall maintain at the Office, a Register of its Members, which shall be open to inspection in accordance with the requirements of the Act.

16. COUNCIL

16.1 The Council of Yetu Infotech Collective represents the general membership of Yetu Infotech Collective in all its classes and categories.

16.2 Any member may fully participate in all its proceedings, except where their participation may give rise to a conflict of interest. Only Voting Members will have voting rights in Council meetings.

16.3 The Council is mandated to determine the political, strategic and programmatic direction of the Yetu Infotech Collective and ensure the organisation remains loyal to the carrying out of its vision and the principal objective as determined by the Council from time-to-time.

16.4 The Council shall oversee the development of a multi-year strategic plan, which sets out the programmes of the organisation.

17. COUNCIL MEETINGS

17.1 The Yetu Infotech Collective shall hold at least three Council Meetings in each year, one of which shall be styled as an Annual General Meeting of Members; provided that no more than fifteen (15) months shall elapse between the date of one Annual General Meeting and that of the next; and the Annual General Meeting shall be held within six (6) months after the expiration of the financial year. Other General Meetings may be held at any time.

17.2 Annual General Meetings and other General Meetings shall be held at such times and places as the Board of Directors may appoint - including online formats - or at such times and places as may be required by the Act.

17.3 Anything to the contrary hereinbefore contained notwithstanding, a Yetu Infotech Collective Council meetings shall be convened by the Board of Directors if at any time it is so requisitioned in writing by not less than 10% of Members of the Council.

18. NOTICE OF COUNCIL MEETINGS

18.1 An Annual General Meeting, and a Council Meeting called for the passing of a Special Resolution, shall be called upon not less than fifteen (15) Business Days' notice in writing; and any other Council Meeting shall be called upon not less than ten (10) Business Days' notice in writing. In the case of an online format, the platform can be opened immediately and must remain open for at least ten (10) days.

18.2 The notice shall be exclusive of the day on which it is served or deemed to be served, and of the day for which it is given, and shall specify the place, the day and the hour of the Meeting; and shall be given in the manner, and subject to the conditions as are prescribed by the Act.

18.3 Notices of Council Meetings must be in writing, and must include:

18.3.1 the date, time, place and platform (should the meeting be held virtually) for the Meeting, and the record date for the Meeting;

18.3.2 the general purpose of the Meeting and any specific purpose contemplated by those requisitioning the Meeting, if applicable;

18.3.3 a copy of any proposed Resolution of which the Yetu Infotech Collective has received Notice, and which is to be considered at the Meeting, and a Notice of the percentage of voting rights that will be required for that Resolution to be adopted;

18.3.4 a reasonably prominent statement that a Member is entitled to attend the Meeting.

19. PROCEEDINGS AT COUNCIL MEETINGS

19.1 Annual General Meetings shall deal with and dispose of all matters prescribed by the Act, including the consideration of the Annual Financial Statements; the appointment or removal of Board of Directors; the appointment of Auditors; but such meetings may also deal with any other business that is laid before it.

19.2 No business shall be transacted at any Yetu Infotech Collective Council Meeting unless a quorum of Members is present at the time when the Meeting proceeds to business. A quorum shall be constituted if there shall be personally present, or in the case of an Organisational Member deemed to be present (through the participation of a Members Representative), sufficient persons as to represent collectively, at least forty percent (40%) of all Voting Members of the Yetu Infotech Collective.

19.3 If within forty-five (45) minutes after the time appointed for the Meeting, a quorum is still not present, the Meeting, if convened upon the requisition of Members, shall be dissolved. In any other case the Chairperson of the Meeting may at his/her discretion extend the period of adjournment for a further period not exceeding forty-five (45) minutes, on the grounds inter alia that:

19.3.1 exceptional circumstances affecting weather, transportation or electronic communication have generally impeded or are generally impeding the ability of Members to be present at the Meeting; or

19.3.2 one or more particular Members, having been delayed, have communicated an intention to attend the Meeting, and those Members, together with others in attendance, would satisfy the requirement for a quorum. Thereafter, if a quorum is still not present, the meeting shall stand adjourned to such time and date as the Chairperson of the Meeting may decide, provided that it shall be within twenty-one (21) days of the date of the original Meeting; and if at such adjourned Meeting a quorum is still not present within forty-five (45) minutes after the time appointed for such Meeting, the Members then present, shall be deemed to constitute a quorum.

19.4 The accidental omission to give Notice of a Meeting to any Member or Members shall not invalidate any Resolution passed at any such quorate Meeting.

19.5 The Yetu Infotech Collective shall not be required to give further Notice of a Meeting that has been postponed or adjourned in terms of clause 19.3, unless the location for the Meeting is different from:

19.5.1 the location of the postponed or adjourned Meeting; or

19.5.2 the location announced at the time of adjournment, in the case of an adjourned Meeting.

19.6 The Chairperson, if any, of the Board of Directors or in his/her absence the Deputy-Chairperson, if any, shall preside as chairperson at every General Meeting of the Yetu Infotech Collective. If there is no such Chairperson or Deputy-Chairperson, or if at any Meeting s/he is not present within forty-five (45) minutes after the time appointed for the holding of the Meeting, or is unwilling to act as Chairperson, the Members present shall elect one of their number to act as Chairperson for that Meeting.

19.7 The Chairperson may, with the consent of any Meeting at which a quorum is present (and shall, if so directed by the Meeting), adjourn the Meeting from time to time and from place to place.

19.8 At any Yetu Infotech Collective Council Meeting, a Resolution put to the vote of the Meeting shall be decided on a show of hands.

19.9 Unless a Meeting is required to be held in compliance with the Act, a Resolution signed by or on behalf of 51% or more Voting Members of the Yetu Infotech Collective shall be as valid and effectual as if passed at a duly convened Meeting of the Yetu Infotech Collective.

20. VOTES OF MEMBERS

20.1 Each Voting Member shall have one (1) vote.

20.2 In the case of an equality of votes, the Chairperson of the Meeting SHALL be entitled to a casting vote.

21. MINUTES AND MINUTE BOOK

21.1 The relevant Officers/Directors shall cause Minutes to be kept:

21.1.1 of the appointments of all officers;

21.1.2 of the names of all Members present or represented at every Yetu Infotech Collective Council Meeting; and of all meetings of the Board of Directors ; and

21.1.3 of the proceedings of the meetings of the Yetu Infotech Collective Council, and of the Board of Directors;.

21.2 The Minutes shall be signed by the Chairperson of the Meeting, or in his/her absence by the Chairperson of the next succeeding Meeting.

22. INSPECTION_OF MINUTES

The Minutes of every Yetu Infotech Collective Council Meeting of the Members, including an Annual General Meeting may be inspected and copied by any Member upon request thereof.

23. BOARD OF DIRECTORS COMPOSITION

23.1 The Board of Directors shall be constituted from time to time in the manner, and in accordance with the procedures indicated hereunder, in order to achieve the twin objectives of proportionality and representivity, and also to make provision for the appointment of persons having appropriate knowledge, experience and skills. These provisions are intended to ensure that the Board of Directors at all times includes the persons who are identified and elected in the specified Categories of Directorships; and that Board of Directors are appointed within such Categories in the specified proportions; and that the Board of Directors so appointed satisfy the relevant eligibility qualifications and criteria as are specified with reference to the Category concerned.

23.2 Accordingly, and in order to achieve these objectives, the Board of Directors Members shall be appointed as follows:

Member or Representative Category	Number of appointees	Eligibility Qualifications
Organisational Member Representatives	4	Appointees to these Directorships must, both at the date of their appointments and throughout the tenure of such appointments hold a mandate from the organisations that they represent. These appointees must be elected by voting Organisational Members present in AGM.
<i>Worker Members</i>	4	These appointees must be elected by Worker Members present in the AGM.
<i>Associate Members</i>	3	These appointees must be elected by voting Associate Members present in the AGM.
<i>ex officio</i> Category		If not appointed as Worker Members, these Directorships must include the most senior worker(s) responsible for (1) overall coordination and (2) finance. These Board seats are ex officio, i.e. full speaking rights without a vote.

24. NOMINATIONS PROCEDURE

24.1 In order to undertake its mandated responsibilities, an authorised member of Yetu Infotech Collective Management Team acting on behalf of the Board of Directors shall, on an annual basis, and in anticipation of the Annual General Meeting, address a notice in writing to all Members of the Yetu Infotech Collective calling upon them to nominate persons who they consider to be qualified and eligible for election as Board of Directors, in each of the Categories of Membership in which vacancies are likely to arise. Such call for nominations shall be addressed at least twenty (20) Business Days prior to the date of the Annual General Meeting at which the election will take place.

24.2 Following the issuance of the call for nominations, any Member of the Yetu Infotech Collective shall be entitled to nominate any voting member of the Council it may consider qualified, eligible and suitable to be elected to the Board of Directors in any of the Categories concerned. Such nominations must be in writing, and must be delivered to the Yetu Infotech Collective Management Team at least ten (10) Business Days prior to the date of the Annual General Meeting at which the election will take place.

24.3 Each nomination must include at least:

24.3.1 the full name, ID number, and address of the nominee, and a motivation for such nomination.

24.3.2 the Category of membership within which the nominee is nominated;

24.3.3 the written consent of the person so nominated, which consent may be furnished by email by the person so nominated.

24.4 Subject to the provisions of clause 25.4, all serving Board of Directors (other than Co-opted Board of Directors) whose terms of appointment will expire at the forthcoming Annual General Meeting shall be deemed *ipso facto* to have been nominated for consideration in the Category of Membership in which they are eligible to serve, unless they advise in writing that they do not wish to be considered for re-appointment.

25. ELECTION OF BOARD OF DIRECTORS

25.1 Election of members to the Board of Directors shall take place at the ensuing Annual General Meeting. All Members present at such Annual General Meeting shall be entitled to exercise an equal vote in the election of each of the Board of Directors Members to be appointed in the relevant of the Membership Categories concerned (i.e. Voting memes will only elect Directors in their Category (other than the *ex officio* Category).

25.1.1 If, in Organisational, Worker, or Associate Membership Categories no more than the required number of Board of Directors have been duly nominated, then the persons so nominated shall be deemed to have been duly elected.

25.1.2 If, in Organisational, Worker, or Associate any Membership Category, more than the required number of Board of Directors Members have been nominated, then an election shall be conducted;

25.1.3 The persons receiving the largest number of votes shall be deemed to have been duly elected. If the numbers of votes cast and the application of the above provisions does not serve to determine which persons are duly elected, then unless otherwise agreed *inter se* between the persons concerned, the outcome of the election shall be determined by means of a second "run-off" election, as may be determined by and at the sole discretion of the Chairperson.

25.2 Each member of the Board of Directors elected or deemed to be elected in terms of the foregoing provisions (with the exception of Co-opted Board of Directors Members) shall serve for a two (2) year term.

25.3 *Ex officio* Members of the Board of Directors shall serve for an indefinite period which shall be coterminous with the duration of their qualifying appointments; provided that the Board of Directors shall retain an overriding discretion, should it deem this appropriate and in the best interests of the Yetu Infotech Collective, to suspend or terminate an *ex officio* appointment (with the exception of the Chairperson of the Yetu Infotech Collective Management Team whose status cannot be altered) at any time, in which event the Board of Directors shall be required to consult with the Yetu Infotech Collective Council.

25.4 Anything to the contrary hereinbefore contained notwithstanding, it is hereby provided that:

25.4.1 No member of the Board of Directors (other than an *ex officio* Board of Directors Member) shall be eligible to serve as a member of the Board of Directors for a further term after having served as a member of the Board of Directors for a consecutive period of six (6) years; provided that, after an intervening period of at least two (2) years during which such person does not serve as a member of the Board of Directors, the person concerned shall once again become eligible for reappointment, whether by election or co-option.

25.5 In the event of a temporary vacancy or vacancies arising during the term of office of any of the Board of Directors Members nominated or elected as aforesaid, the Board of Directors shall be entitled - but shall not be obliged - at its complete and entire discretion, to fill such temporary vacancy/ies by co-opting as a Board of Directors Member another eligible and suitably qualified person in relation to the Category of Directorship concerned, by resolution of the Board of Directors passed with a simple majority. Any such Co-opted Board of Directors Member shall serve only for the balance of the term of the Board of Directors Member in whose place that Board of Directors Member shall have been so co-opted, subject however to the overriding discretion of the Board of Directors, should it at any time deem this appropriate and in the best interests of the Yetu Infotech Collective, to suspend or terminate the appointment of any such Co-opted Board of Directors Member, in which event the Board of Directors shall be under no obligation, express or implied, to provide motivation or reasons for such decisions.

25.6 For the avoidance of doubt, it is further provided that during the period of any such temporary vacancy, the remaining Board of Directors Members shall be entitled and required to continue acting as if duly constituted and empowered, notwithstanding the existence of such temporary vacancy, provided that if there is more than one such temporary vacancy the remaining Board of Directors Members may act during the period of such temporary vacancies only to the extent necessary in order to:

25.6.1 secure and promote the interests and enterprise of the Yetu Infotech Collective, and ensure the continuity of its operations and services; and/or

25.6.2 cause any such vacancies to be filled in order that the number of Board of Directors Members may be increased to at least the required minimum, namely five (5); and/or

25.6.3 initiate a process, which may include the summoning of meetings the Board of Directors and/or Meeting of the Yetu Infotech Collective Council, in order to procure the appointment or election of the required Board of Directors Members; provided that if there is no Board of Directors Member able or willing to act, any Member of the Yetu Infotech Collective may initiate the process and convene the necessary meetings.

25.7 No person shall be capable of being appointed as a Board of Directors Member unless the provisions of the Companies Act have been duly complied with.

25.8 Notwithstanding the foregoing, all decisions adopted and actions taken in good faith by the Board of Directors , or by a Committee of the Board of Directors , or by a person acting as a Board of Directors Member, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of such Board of Directors Member, or the person acting as aforesaid, or that any such person was disqualified, shall nonetheless be as valid and effectual as if such person/s had been duly appointed and was duly qualified to serve as a Board of Directors Member.

25.9 Notwithstanding the existence of distinct Categories of Directorships and notwithstanding the particular qualifications and eligibility criteria required of Board of Directors Members to be appointed in each Category, all Board of Directors Members irrespective of the Category from which they derive their appointment shall be required to act at all times solely in the best interests of the Yetu Infotech Collective as a whole, and not merely with a view to representing or advancing the special interests of a particular sector or member institution.

26. CHAIRPERSON – DEPUTY CHAIRPERSON

26.1 It shall be incumbent upon the Board of Directors to appoint a duly qualified person to the office of:

26.1.1 Chairperson;

26.1.2 Deputy Chairperson

26.1.3 Secretary and

26.1.4 Treasurer

26.2 Worker Members will not be eligible for these offices.

26.3 The person so appointed by the Board of Directors shall preside as its Chairperson and shall also serve as the Chairperson of the Yetu Infotech Collective Council.

26.4 If at any time no Chairperson or Deputy Chairperson shall have been appointed, or if neither of them is present or willing to act within 15 minutes of the time appointed for the commencement of a meeting, the Board of Directors or the Yetu Infotech Collective Council, as the case may be, who are present shall choose one of their number to preside as Chairperson of that meeting.

26.5 For the avoidance of doubt, the appointment of the Chairperson and/or Deputy Chairperson, may at any time be rescinded by the Board of Directors should it deem this appropriate and in the best interests of the Yetu Infotech Collective, in which event the Board of Directors.

26.6 The appointment of the Chairperson and Deputy Chairperson, respectively, shall be for such period as the Board of Directors but shall not exceed a period of six (6) years; provided that the initial six (6) year term of a Chairperson and/or Deputy Chairperson may be extended at the discretion of the Yetu Infotech Collective Council for such further period, not exceeding a further five (5) years, as deemed by the Yetu Infotech Collective Council as being in the best interests of the Yetu Infotech Collective.

27. OFFICERS' REMUNERATION AND REIMBURSEMENT

27.1 Members of the Board of Directors who are employed by the Yetu Infotech Collective or Members of the Yetu Infotech Collective Council shall receive no remuneration in respect of their services as members of the Board of Directors; provided that a representative of the Yetu Infotech Collective Management Team member serving ex-officio on the Board of Directors shall be entitled to such remuneration as may be considered reasonable and commensurate with his/her duties and responsibilities.

27.2 Notwithstanding the foregoing and in compliance with clause 27.1, all Board of Directors shall be entitled to claim reimbursement of reasonable travelling, subsistence, and other expenses as may be incurred from time to time with the approval and authority of the Board of Directors in the execution of their duties as Board of Directors.

28. POWERS AND DUTIES OF BOARD OF DIRECTORS

28.1 The governance of the Yetu Infotech Collective shall be managed by the Board of Directors. The Board of Directors are responsible for the good governance and democratic functioning of the organisation and specifically for all matters related to the fiduciary responsibilities of the organisation.

28.2 The Board of Directors will ensure that the day-to-day running of the organisation is facilitated by the Yetu Infotech Collective Management Team, as set out in clause 37 of this MOI.

28.3 The Board of Directors is empowered to oversee subject to the regular reporting to the Yetu Infotech Collective Council:

28.3.1 the finances and the legal duties / obligations of the Yetu Infotech Collective,

28.3.2 the appointment of senior executive staff who serve on the Yetu Infotech Collective Management Team

28.3.3 All payments on behalf of the Yetu Infotech Collective, including all expenses incurred in promoting and incorporating the Yetu Infotech Collective,

28.3.4 Yetu Infotech Collective's finances and assets are managed through the Finance sub-committee of the Board of Directors under the direction of the Treasurer operating within the parameters of Yetu Infotech Collective's Finance Policy which is regularly reviewed and updated where necessary.

28.4 The Yetu Infotech Collective's financial transactions shall be conducted through one or more banking accounts, to be operated under such mandates and authorisations as the Board of Directors may determine from time to time.

29. BORROWING POWERS

The Board of Directors borrowing powers shall be unlimited, and they shall be entitled to borrow money and to mortgage, pledge, or otherwise bind the undertaking and property of the Yetu Infotech Collective or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability, or obligation of the Yetu Infotech Collective or of any third party.

30. CESSATION OF APPOINTMENT OF BOARD OF DIRECTORS

The office of Board of Director shall be vacated if the appointee concerned:

30.1 ceases to hold the required mandate of the Member Institution, or for any other reason in the opinion of the Board of Directors no longer satisfies the eligibility criteria applicable to the Category of Directorship within which such person was appointed as a member of the Board of Directors; or

30.2 ceases to be a Member of the Board of Directors by effluxion of his/her period of appointment; or becomes prohibited from serving as a Member of the Board of Directors by virtue of any provision of the Act, or of this Memorandum; or

30.3 ceases, in the case of the Chairperson or representative of the Yetu Infotech Collective Management Team, to hold the appointment by virtue of which such person is deemed to be an *ex officio* a member of the Board of Directors; or

30.4 resigns the office of Board of Director member by notice in writing to the Yetu Infotech Collective, and to the Commission; or

30.5 is directly or indirectly interested in any contract or proposed contract with the Yetu Infotech Collective, and fails to declare her/his interest and the nature thereof, in the manner required by the Act; or

30.6 is removed from office by the Board of Directors, in the case of any Co-opted or *ex officio* member of the Board of Directors; or

30.7 is absent from three consecutive meetings of the Board of Directors , unless the Board of Directors may, with the unanimous support of all the other Board of Directors Members then appointed, resolve to the contrary; or

30.8 is removed from office by ordinary resolution passed at a duly convened meeting of the Yetu Infotech Collective Council.

31. PROCEEDINGS OF BOARD OF DIRECTORS MEMBERS

31.1 The Board of Directors may meet together for the despatch of business; and adjourn and otherwise regulate their Meetings as they deem fit.

31.2 At all Meetings of Board of Directors, the quorum necessary for the transaction of business shall be no less than a simple majority (50% +1) of the Board of Directors Members.

31.3 Any two (2) of the Board of Directors may, and the Chairperson shall, upon the requisition of any two (2) Board of Directors Members, convene a Meeting of the Board of Directors at any time.

31.4 Each Board of Directors present or represented at a Meeting shall be entitled to exercise one (1) vote.

31.5 Decisions arising at a Meeting of Board of Directors Members shall be decided by a majority of votes, provided that in the case of an equality of votes the Chairperson, or in the absence of the Chairperson then the Deputy Chairperson, shall be entitled to a second and casting vote.

31.6 Subject to the Act, a Resolution that has been circulated in writing to all Board of Directors then holding office and which is approved in writing, including electronic communications, by a majority of the Board of Directors, shall be as valid and effectual as if passed at a Meeting of the Board of Directors, duly called and constituted. The Resolution may consist of several documents, each signed in terms of this clause by one or more Board of Directors or their duly appointed Alternate.

31.7 The Board of Directors may delegate any of its powers to an Executive Committee and/or one or more special purpose committees, subject to the following provisions:

31.7.1 such Committees shall consist of Members of the Board of Directors, but may also include other persons, as the Board of Directors may deem appropriate; and

31.7.2 such Committees shall, in the exercise of their powers and responsibilities, determine their own procedural formalities, but shall conform to any such Terms of Reference, rules, restrictions, or procedures that may be imposed upon them by the Board of Directors .

31.8 All acts done by any Meeting of the Board of Directors , or any Committee, or by any person acting as a Member shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Board of Directors or person acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Board of Directors. For the avoidance of doubt, the Board of Directors shall not be divested of its powers and prerogatives by reason of any such delegation of its powers.

31.9 The Board of Directors shall cause to be kept such accounting records as are prescribed by the Act, in order to fairly present the state of affairs and finances of the Yetu Infotech Collective and to explain the transactions and financial position of the Yetu Infotech Collective.

31.10 The accounting records shall be kept at The Office of the Yetu Infotech Collective, or at such other place or places as the Board of Directors think fit and shall always be open to inspection by the Board of Directors.

31.11 The Board of Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Yetu Infotech Collective or any of them shall be open to inspection by Members, and no Member shall have the right of inspecting any books of account, records, or documents of the Yetu Infotech Collective, except as conferred by the Act or authorised by the Board of Directors.

32. MEETINGS BY ELECTRONIC COMMUNICATIONS

32.1 Meetings of the Board of Directors and of the Yetu Infotech Collective Council may be held wholly or partially by Electronic Communication, and provide for the participation in such Meeting by Electronic Communication, as contemplated by section 63 of the Act; and the power to do so is not limited or restricted by this Memorandum. Accordingly, any such Meeting of the Board of Directors or of the Yetu Infotech Collective Council may be conducted entirely by Electronic Communication; or one or more Members may participate by Electronic Communication in all or part of the relevant Meeting, provided all such persons participating in the Meeting are able to communicate concurrently with each other, and without reliance upon an intermediary, and to participate in a manner that is reasonably effective.

32.2 The Notice of a General Meeting of Members or of the Board of Directors , as the case may be, at which it will be possible for the persons concerned to participate by way of Electronic Communication shall inform such persons of the ability to so participate; and shall provide any necessary information to enable them to access the available medium or means of Electronic Communication.

33. FINANCIAL YEAR - ANNUAL FINANCIAL STATEMENTS

33.1 The Financial Year of the Yetu Infotech Collective shall correspond with the calendar year; that is, it shall commence on 1 January and terminate on 31 December in each year.

33.2 The Board of Directors shall from time to time in accordance with the provisions of the Act, cause to be prepared and laid before the Yetu Infotech Collective Council such Annual Financial Statements as are referred to therein.

33.3 Copies of the Annual Financial Statements to be laid before a Meeting shall be available to every Member of the Council and to every member of the Board of Directors of the Yetu Infotech Collective; provided that this clause shall not require such copies to be sent:

33.3.1 to any Member who has requested in writing that copies of such Financial Statements be NOT sent to it; or

33.3.2 to any person of whose address the Yetu Infotech Collective is unaware.

34. AUDITORS

An independent Auditor shall be appointed, and may be removed, and replaced by the Board of Directors in accordance with the provisions of this Memorandum and the Act.

35. LIMITATION OF LIABILITY AND INDEMNITY

35.1 A Director of the Board of Directors shall incur no personal liability for the debts or obligations of the Yetu Infotech Collective, by reason only of such person having served in that capacity as a member of the Board of Directors.

35.2 Subject to the relevant provisions of the Act, each member of the Board of Directors and other officer of the Yetu Infotech Collective shall be indemnified by the Yetu Infotech Collective against all costs, expenses, and liabilities reasonably incurred, with the authority of the Board of Directors, on behalf and in the interests of the Yetu Infotech Collective.

35.3 No Member of the Board of Directors or other officer or employee of the Yetu Infotech Collective shall be liable for the acts, receipts, neglects or defaults of any other member of the Board of Directors, officer or employee; or for joining in any receipt or other act for conformity; or for loss or expense happening to the Yetu Infotech Collective through the insufficiency or deficiency of any security in or upon which any of the funds of the Yetu Infotech Collective may be invested; or for any loss or damage arising from the bankruptcy, insolvency or delictual acts of any persons with whom any moneys, securities or effects shall be deposited; or for any loss or damage occasioned by any error of judgment or oversight; or for any other loss, damage or misfortune whatever which shall happen in the execution of duties performed on behalf of the Yetu Infotech Collective, or in relation thereto, unless the same be attributable to that person's own wrongful act, gross negligence, breach of duty or trust.

36. NOTICES

36.1 A notice may be given by the Yetu Infotech Collective by physical delivery, fax, electronic mail or any other method established as custom thereof to the Member.

36.2 If receipt of notice by post is disputed by a Member, such notice shall be deemed not to have been duly given, unless the Yetu Infotech Collective shall be able to produce a registered slip, or electronic confirmation verifying that the notice was duly despatched as aforesaid. Any notice by registered post shall be deemed to have been served five (5) Business Days after the letter containing the same was duly posted as aforesaid, or, in the case of electronic mail, on the next Business Day following the despatch of such electronic mail.

36.3 Notice of every General Meeting shall be given in a manner as required by law and authorised by this Memorandum

36.4 The accidental omission to give notice of a General Meeting or of a Meeting of the Board of Directors to, or the non-receipt of any such notice by, any Member or Board of Directors Member, as the case may be, shall not invalidate any Resolution passed at the ensuing Meeting.

37. POWERS AND DUTIES OF YETU INFOTECH COLLECTIVE MANAGEMENT TEAM

37.1 The day to day operational business of the Yetu Infotech Collective shall be managed by the Yetu Infotech Collective Management Team.

37.2 The senior executives who serve on Yetu Infotech Collective Management Team will be appointed by a committee established by the Board of Directors, and subject to performance reviews by the Board of Directors.

37.3 Subject to regular reporting to the Board of Directors the Yetu Infotech Collective Management Team is empowered to oversee:

37.3.1 The day to day management of Yetu Infotech Collective finances in line with Council approved strategic plans and financial framework.

37.3.2 The appointment of Yetu Infotech Collective workers to meet the strategic objectives of Yetu Infotech Collective, contractors and service provider.

37.3.3 The implementation of Yetu Infotech Collective programmes and activities in line with Council approved strategic plans and objectives for Yetu Infotech Collective.

37.3.4 Represent Yetu Infotech Collective in campaigns, coalitions and networks that advance the strategic objectives of the Yetu Infotech Collective in ways that advance the interests of our members.

37.3.5 The implementation of Yetu Infotech Collective policies aimed at meeting strategic objectives of Yetu Infotech Collective approved by Council, including policies related to Disciplinary

Code of Conduct, Sexual Harassment, Dispute Resolution, Performance Appraisals and any others that may be developed from time to time.

38. DISPUTE RESOLUTION

38.1 A dispute concerning or arising out of this MOI exists once a party bound by this MOI notifies the Board of Directors in writing of the nature of the dispute and that it requires it to be resolved under this clause. The parties must refer any dispute to be resolved by:

38.1.1 negotiation; failing which

38.1.2 mediation; failing which

38.1.3 arbitration.

38.2 Within ten days of notification, the parties must seek an amicable resolution to the dispute through negotiation and signing and agreement resolving it within 15 days.

38.3 If negotiation fails, the parties must refer the dispute for resolution by mediation under the rules of the Arbitration Foundation of Southern Africa (“AFSA”) or its successor in title.

38.4 If mediation fails, the parties must refer the dispute within 15 days for resolution by arbitration under the rules of AFSA.

ENDS

PRESCRIBED COMPANIES ACT PROVISIONS CONCERNING NON-PROFIT COMPANIES (NPC'S) WITH MEMBERS

The Special Provisions Concerning Non-Profit Companies, insofar as they relate to non-profit companies with Members – as set out in Schedule 1 to the Act - are applicable, to the Yetu Infotech Collective; and to that extent, such Provisions are deemed to be incorporated in this Memorandum of Incorporation, and are repeated hereunder, for ease of reference, as follows:

1. Objects and Policies

- (1) As required in terms of Schedule 1 of the Companies Act, this Memorandum of Incorporation–
- (a) sets out one or more objects of the Yetu Infotech Collective, and each such object is either:
 - (i) a public benefit object; or
 - (ii) an object relating to one or more cultural or social activities, or communal or group interests; and
 - (b) is consistent with the principles set out in sub-items (2) to (5) hereunder.
- (2) As a non-profit Company, this Yetu Infotech Collective:
- (a) must apply all of its assets and income, however derived, to advance its stated objects, as set out in this Memorandum of Incorporation; and
 - (b) subject to paragraph (a), and subject to due compliance with the Prescribed Fiscal Conditions and all other applicable provisions of the Income Tax Act 1962 (Act No. 58 of 1962) with respect to approved Public Benefit Organisations, may:
 - (i) acquire and hold securities issued by a profit Yetu Infotech Collective; or
 - (ii) directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to its stated objects.
- (3) As a non-profit Company, this Yetu Infotech Collective must not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless whether the income or asset was derived, to any person who is or was an Incorporator of the Yetu Infotech Collective, or who is a Member or Director, or person appointing a Director, of the Yetu Infotech Collective, except:

- (a) as reasonable:
 - (i) remuneration for goods delivered or services rendered to, or at the direction of, the Yetu Infotech Collective; or
 - (ii) payment of, or reimbursement for, expenses incurred to advance a stated object of the Yetu Infotech Collective;
 - (b) as a payment of an amount due and payable by the Yetu Infotech Collective in terms of a bona fide agreement between the Yetu Infotech Collective and that person or another;
 - (c) as a payment in respect of any rights of that person, to the extent that such rights are administered by the Yetu Infotech Collective in order to advance a stated object of the Yetu Infotech Collective; or
 - (d) in respect of any legal obligation binding on the Yetu Infotech Collective.
- (4) Despite any provision in any law or agreement to the contrary, upon the winding-up or dissolution of this Yetu Infotech Collective:
- (a) no past or present Member or Director of the Yetu Infotech Collective, or person appointing a Director of this Yetu Infotech Collective, is entitled to any part of the net value of the Yetu Infotech Collective after its obligations and liabilities have been satisfied; and
 - (b) the entire net value of the Yetu Infotech Collective must be distributed to one or more other non-profit companies, external non-profit companies carrying on activities within the Republic, voluntary associations, or non-profit trusts—
 - (i) having objects similar to the main object of this Yetu Infotech Collective; and
 - (ii) as determined:
 - (aa) in terms of the Yetu Infotech Collective’s Memorandum of Incorporation;
 - (bb) by its Members, if any, or its Directors, at or immediately before the time of its dissolution; or
 - (cc) by the court, if the Memorandum of Incorporation, or the Members or Directors fail to make such a determination.
- (5) In accordance with the provisions of the Companies Act, the Commission may apply to the court, on behalf of this Yetu Infotech Collective, for a determination contemplated in sub-item (4)(b)(ii)(cc) if the Yetu Infotech Collective has:

- (a) no remaining Members or Directors; and
 - (b) failed to:
 - (i) make a determination contemplated in sub-item (4)(b)(ii)(bb); or
 - (ii) apply to the court for such a determination.
- (6) It is hereby acknowledged, as stipulated in terms of Schedule 1 to the Companies Act, that incorporation as a non-profit Company, or if applicable, registration as an External non-profit Company in terms of the Companies Act, and compliance by either with the provisions of that Act, does not necessarily qualify that non-profit Company, or External non-profit Company, for any particular status, category, classification or treatment in terms of the Income Tax Act, 1962 (Act No. 58 of 1962), or any other legislation, except to the extent that any such legislation provides otherwise.
- (7) As a non-profit Company with Members, each voting Member has at least one vote.
- (8) The vote of each Member of a non-profit Company is of equal value to the vote of each other voting Member on any matter to be determined by vote of the Members, except to the extent that the Yetu Infotech Collective's Memorandum of Incorporation provides otherwise.
- (9) As a non-profit Company with Members, the requirements in section 24(4) to maintain a securities register must be read as requiring the Yetu Infotech Collective to maintain a membership register.

2. Fundamental Transactions

- (1) As a non-profit Company, this Yetu Infotech Collective may not—
- (a) amalgamate or merge with, or convert to, a profit Yetu Infotech Collective; or
 - (b) dispose of any part of its assets, undertaking or business to a profit Yetu Infotech Collective, other than for fair value, except to the extent that such a disposition of an asset occurs in the ordinary course of the activities of the Yetu Infotech Collective.
- (2) As non-profit Company with voting Members, any proposal to:
- (a) dispose of all or the greater part of its assets or undertaking; or
 - (b) amalgamate or merge with another non-profit Company,
- must be submitted to the voting Members for approval, in a manner comparable to that required of profit companies in accordance with sections 112 and 113, respectively.
- (3) Sections 115 and 116, read with the changes required by the context, apply with respect to the approval of a proposal contemplated in sub-item (2).

3. Incorporators of non-profit Company

As a non-profit Company with Members, the Incorporators are its-

- (a) first Directors; and
- (b) its first Members.

4. Members

- (1) The Memorandum of Incorporation provides for the Yetu Infotech Collective to have Members.
- (2) As the Memorandum of Incorporation provides for the Yetu Infotech Collective to have Members, it:
 - (a) must not restrict or regulate, or provide for any restriction or regulation of, that membership in any manner that amounts to unfair discrimination in terms of Section 9 of the Constitution;
 - (b) must not presume the membership of any person, regard a person to be a Member, or provide for the automatic or *ex officio* membership of any person, on any basis other than life-time membership awarded to a person:
 - (i) for service to the Yetu Infotech Collective or to the public benefit objects set out in the Yetu Infotech Collective's Memorandum of Incorporation; and
 - (ii) with that person's consent;
 - (c) may allow for membership to be held by juristic persons, including profit companies;
 - (d) may provide for no more than two classes of Members, that is voting and non-voting Members, respectively; and
 - (e) must set out:
 - (i) the qualifications for membership;
 - (ii) the process for applying for membership;
 - (iii) any initial or periodic cost of membership in any class;
 - (iv) the rights and obligations, if any, of membership in any class; and
 - (v) the grounds on which membership may, or will, be suspended or lost.

5. Directors

- (1) As this is a non-profit Company with Members, the Memorandum of Incorporation must:

- (a) set out the basis on which the Members choose the Directors of the Yetu Infotech Collective; and
 - (b) if any Directors are to be elected by the voting Members, provide for the election each year of at least one-third of those elected Directors.
- (2) If this non-profit Company had no Members, the Memorandum of Incorporation would need to set out the basis on which Directors are to be appointed by its Board of Directors , or other persons.
- (3) A non-profit Company must not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to, a Director of the Yetu Infotech Collective, or of a related or inter-related Yetu Infotech Collective, or to a person related to any such Director.
- (4) Sub-item (3) does not prohibit a transaction if it:
 - (a) is in the ordinary course of the Yetu Infotech Collective’s business, and for fair value;
 - (b) constitutes an accountable advance to meet:
 - (i) legal expenses in relation to a matter concerning the Yetu Infotech Collective; or
 - (ii) anticipated expenses to be incurred by the person on behalf of the Yetu Infotech Collective;
 - (c) is to defray the person’s expenses for removal at the Yetu Infotech Collective’s request; or
 - (d) is in terms of an employee benefit scheme generally available to all employees or a specific class of employees.

PRESCRIBED FISCAL PROVISIONS CONCERNING PUBLIC BENEFIT ORGANISATIONS (PBO'S)

Having been approved by the Commissioner for the South African Revenue Service (SARS) as a "Public Benefit Organisation" in terms of section 30 of the Income Tax Act, No. 58 of 1962, as amended, this Memorandum of Incorporation is deemed to include the relevant provisions prescribed in terms of the Income Tax Act, which are repeated hereunder for ease of reference, as follows:

[THE Yetu Infotech Collective BEING REFERRED TO IN THIS SCHEDULE AND IN THE LEGISLATION AS "THE ORGANISATION"]

- 1. As a Public Benefit Organisation approved by the Commissioner for purposes of section 18(A)(1) of the Income Tax Act, the Yetu Infotech Collective shall:**
 - 1.2 Ensure that any eligible donations actually paid or transferred to the Yetu Infotech Collective, are applied solely to undertake, or to enable other Eligible Beneficiaries to undertake Public Benefit Activities as listed from time to time in Part II of the Ninth Schedule; including the provision of funds or assets to assist other Eligible Beneficiary organisations, institutions, Board of Directors or bodies to conduct such Activities, including such as may be determined by the Minister from time to time for purposes of section 18A of the Act. The term "Eligible Beneficiaries" shall include the Government itself, and any provincial administration or local authority contemplated in section 10(1)(a) or (b) of the Income Tax Act.
 - 1.3 Ensure that during each year of assessment preceding the year of assessment of the Yetu Infotech Collective during which a qualifying donation is received, it distributes or incurs the obligation to distribute at least Fifty Percent (50%) of the funds so received by or accrued to it by way of donations which qualify for a deduction in terms of section 18A of the Income Tax Act; unless the Commissioner upon good cause shown agrees to waive, defer or reduce such obligation to distribute, as contemplated by the proviso to section 18A(1)(b)(ii) of the Act, and in that event, subject to any such conditions as the Commissioner may determine.
 - 1.4 Comply with, and have regard to, any such additional requirements as may be prescribed by the Minister from time to time in terms of section 18A(1), or as may be otherwise imposed by the Commissioner in terms of the Act, including any additional requirements prescribed by the Minister as binding upon Eligible Beneficiaries carrying on any specified activity before donations shall be allowed as a deduction for purposes of section 18A.

- 1.5 Ensure that an audit certificate is provided upon submission by the Yetu Infotech Collective to the Commissioner of its annual return for each year of assessment, confirming that all donations received or accrued by the Yetu Infotech Collective in that year, in respect of which section 18A receipts were issued by the Yetu Infotech Collective, were utilised in the manner contemplated by that section.
- 2. As a Public Benefit Organisation approved by the Commissioner for purposes of section 30 of the Income Tax Act, the Yetu Infotech Collective shall:**
- 2.1 Carry on the public benefit activities of the Yetu Infotech Collective in a non-profit manner, and with an altruistic or philanthropic intent.
- 2.2 Ensure that no such activity is intended to directly or indirectly promote the economic self-interest of any fiduciary, or employee, of the Yetu Infotech Collective, otherwise than by way of reasonable remuneration payable to that fiduciary or employee.
- 2.3 Take reasonable steps to ensure that each such activity as is carried on by it is for the benefit of, or is widely accessible to, the general public at large, including any sector thereof (other than small and exclusive groups)
- 2.4 Comply with such conditions, if any, as the Minister may prescribe by way of regulation to ensure that the activities and resources of the Yetu Infotech Collective are directed in the furtherance of its objects.
- 2.5 Submit to the Commissioner a copy of the Constitution, Will or other written instrument under which it has been established.
- 2.6 Be required in terms of such Constitution, to have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Yetu Infotech Collective, and that no single person directly or indirectly controls the decision-making powers of the Yetu Infotech Collective.
- 2.7 Be prohibited from directly or indirectly distributing any of its funds to any person (otherwise than in the course of undertaking any public benefit activity) and be required to utilise its funds solely for the objects for which it has been established.
- 2.8 Be required on dissolution to transfer its assets to:
- 2.8.1 any Public Benefit Organisation which has been approved in terms of section 30(3) of the Income Tax Act;
- 2.8.2 any institution, Board of Directors or body which is exempt from tax under the provisions of section 10(1)(cA)(i) of that Act, which has as its sole or principal object the carrying on of any public benefit activity; or

- 2.8.3 any government of the Republic in the national, provincial or local sphere, contemplated in section 10(1)(a) of that Act.
- 2.9 Be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A; provided that a donor (other than a donor which is an approved public benefit organisation or an institution, Board of Directors or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity) 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.
- 2.10 Be required to submit to the Commissioner a copy of any amendment to the Constitution, Will or other written instrument under which it was established.
- 2.11 Ensure that it is not knowingly a party to, and does not knowingly permit itself to be used as part of 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 Act or any other Act administered by the Commissioner.
- 2.12 Not pay any remuneration, as defined in the Fourth Schedule to the Income Tax Act, to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered; and has not and will not economically benefit any person in a manner which is not consistent with its objects.
- 2.13 Comply with such reporting requirements as may be determined by the Commissioner.
- 2.14 Take reasonable steps to ensure that the funds which it may provide to any association of persons as contemplated in paragraph (b)(iii) of the definition of “Public Benefit Activities” in section 30 of the Act, are utilised for the purpose for which they are provided.
- 2.15 Shall not use its resources directly or indirectly to support, advance or oppose any political party.
- 2.16 Ensure that any books of account, records or other documents relating to its affairs are:
- 2.16.1 where kept in book form, retained and carefully preserved by any person in control of the Yetu Infotech Collective, for a period of at least four years after the date of the last entry in any such book; or

2.16.2 where not kept in book form, are retained and carefully preserved by any person in control of the Yetu Infotech Collective, for a period of four years after the completion of the transaction, act or operation to which they relate.

PRESCRIBED NPO PROVISIONS

**CONCERNING REGISTERED NONPROFIT ORGANISATIONS (NPO'S) REGISTERED IN TERMS OF THE
NONPROFIT ORGANISATIONS ACT, NO. 71 OF 1997, AS AMENDED.**

Having been registered in terms of the Nonprofit Organisations Act, No. 71 of 1997, as amended, this Memorandum of Incorporation includes due provision for the eligibility requirements prescribed in terms of section 12(2) of that Act, as follows:

1. The Yetu Infotech Collective's name is stated on the Cover Page and in clause 4 of this Memorandum.
2. The Yetu Infotech Collective's main and ancillary objectives are stated in clause 6 of this Memorandum.
3. The Yetu Infotech Collective's income and property shall not be distributable to its members, or to its Directors or other office-bearers, except as reasonable compensation for services rendered, as stated in clause [insert] of this Memorandum, and in clause 1(3) of Attachment "A" and clause 2.7 of Attachment "B".
4. The Yetu Infotech Collective is a body corporate and shall have an identity and existence distinct from its Members, Directors, and other office-bearers, in accordance with the terms of the Act, as stated in clause 5 of this Memorandum.
5. The Yetu Infotech Collective shall continue to exist notwithstanding changes that may occur in the composition of its membership, or of its Directors or other office-bearers, pursuant to the provisions of the Companies Act, and as envisaged by clause 35 *et seq* of the Memorandum.
6. The members of the Yetu Infotech Collective and its office-bearers shall have no rights in the property or other assets of the Yetu Infotech Collective solely by virtue of their being members, Directors, or other office-bearers, as contemplated, by clause 7.3 of this Memorandum, and clause 1(3) and (4) of Attachment "A", and clause 2.7 of Attachment "B".
7. The powers of the Yetu Infotech Collective are referred to in clauses 7; 28 and 29 of this Memorandum, as read with the provisions of the Companies Act.
8. The organisational structures and mechanisms for its governance are set forth in clauses 16 and 23 of this Memorandum.

9. The rules for convening and conducting meetings, including quorums required for, and the minutes to be kept of those meetings, shall be as stated in clauses 17, 18, 19, 20, 21, 22, 31, 32 and 36 of this Memorandum.
10. The manner in which decisions are to be made shall be as stated in clauses 19, 31 and 32 of this Memorandum.
11. The Yetu Infotech Collective's financial transactions must be conducted by means of a banking account, as stated in clause 28.4 of this Memorandum.
12. The date for the end of the Yetu Infotech Collective's financial year shall be as stated in clause 33 of this Memorandum.
13. The procedure for changing the provisions of this Memorandum shall be as stated in clause 8 of this Memorandum and as prescribed by the Companies Act.
14. The procedure by which the Yetu Infotech Collective may be wound up or dissolved shall be as stated in the Companies Act, including the provisions of clause 7.4 of this Memorandum, and clause 1(4) to Attachment "A" and clause 2.8 of Attachment "B".
15. When the Yetu Infotech Collective is wound up or dissolved, any asset remaining after all its liabilities have been met, must be transferred to another Nonprofit Organisation which is an approved Public Benefit Organisation, as stated in clause 7.4 of this Memorandum, and clause 1(4) of Attachment "A" and clause 2.8 of Attachment "B".

COOPERATIVE PRINCIPLES

Yetu Infotech Collective will subscribe to the Seven Cooperative Principles:

1. Voluntary and open membership. Co-ops are open to all who are able to use their services and willing to accept the responsibilities of membership.
2. Democratic member control. Co-ops are controlled by their members, who set the policies and make decisions. Elected representatives are accountable to the members, who have equal voting rights: one member, one vote.
3. Member economic participation. Members contribute equitably to, and democratically control, the capital of their cooperative. They allocate surpluses to develop the co-op, and benefit in proportion to their transactions with the co-op.
4. Autonomy and independence. Cooperatives are self-help organizations controlled by their members. If they enter into agreements with other organizations, they do so on terms that ensure democratic control by their members.
5. Education, training and information. Co-ops provide education and training for members, elected representatives, managers and employees so they can contribute to the development of their co-ops. They inform the public, particularly young people and opinion leaders, about the nature and benefits of cooperation.
6. Cooperation among cooperatives. Cooperatives serve their members by working together locally, nationally, regionally and internationally.
7. Concern for community. While focusing on member needs, cooperatives work for the sustainable development of their communities.

King IV PRINCIPLES

King IV guidance principles, namely: ethical culture, good performance, effective control and legitimacy.

The goal is to focus on transparency and greater accountability, rather than prescriptive rules.

The governing body/Board of Directors commits to comply with and give full effect to the principles, values and guidelines which constitute the independent code and the King IV supplement for non-profit organisations:

1. To lead ethically and effectively;
2. To govern the ethics of the organisation in a way that supports the establishment of an ethical culture;
3. To ensure that the organisation is and is seen to be a responsible global citizen;
4. To ensure that the organisations core purpose, its risks and opportunities, strategy, business model performance and sustainable development are all inseparable elements of the value creation process
5. To ensure that reports issued by the organisation enable stakeholders to make informed assessments of the organisation’s performance and its short, medium- and long-term prospects;
6. To serve as the focal point and custodian of the corporate governance of the organisation;
7. The governing body should comprise the appropriate balance of knowledge, skills, experience, diversity and independence for it to discharge its governance role and responsibilities objectively and effectively
8. The Governing body should ensure that its arrangements for delegation within its own structures promote independent judgement, and assist with the balance of power and the effective discharge of duties
9. The governing body should ensure that the evaluation of its own performance and that of its committees, its chair and its individual members support continued improvement in its performance and effectiveness
10. The governing body should ensure that the appointment of and delegation to, management contribute to role clarity and the effective exercise of authority and responsibility

11. The governing body should govern risk in a way that supports the organisation in setting and achieving strategic objectives
12. The governing body should govern technology and information in a way that supports the organisation setting and achieving its strategic objectives
13. The governing body should govern compliance with applicable laws and adopted non-binding rules, codes and standards in a way that supports the organisation being ethical and a good corporate citizen
14. The governing body should ensure that the organisation remunerates fairly, responsibly, and transparently so as to promote the achievement of strategic objectives and positive outcomes in the short, medium and long term
15. The governing body should ensure that assurance services and functions enable an effective control environment and that these support the integrity of information for internal decision making and of the organisations' external reports
16. In the execution of its governance role and responsibilities, the governing body should adopt a stakeholder inclusive approach that balances the needs, interests and expectations of material stakeholders in the best interests of the organisation over time.