



ITHEMBA IS PART OF THE EOH GROUP OF COMPANIES

MEMORANDUM OF INCORPORATION

As a result of the Companies Act of 2008 ("the 2008 Act") all entities registered in terms of the Act are well advised to prepare and register a memorandum of incorporation, replacing the memorandum and articles of association as adopted under the 1973 Act. In view of the substantial flexibility provided for by the **2008 Act** in respect of the content of the memorandum of incorporation ("MOI"), it is imperative for each and every entity to carefully consider the content of its MOI to ensure that it obtains maximum value from the provisions of this Act.

The 2008 Act states that a **shareholders' agreement** may also no longer be in conflict with the provisions of a company's MOI. This requires a review of all shareholders' agreements to ensure alignment between the provisions of the shareholders' agreements, the 2008 Act and the company's MOI.

With the necessary expertise and support, **iThemba** is ideally suited to assist companies and groups of companies with this process. Call us today for a discussion and appropriate quotation.

WHERE ARE YOU ON THE COMPLIANCE AND GOVERNANCE BAROMETER?

One of the consequences of creating legal entities such as companies through which business is conducted, is the need for compliance to a vast number of statutory provisions and regulations. In order to protect the entity from unnecessary sanction for non-compliance it is vital to implement the required procedures to ensure timeous compliance.

The **Companies Act of 2008** contains an extensive list of requirements for all companies incorporated in terms of the Act. Ensuring on-going compliance with these requirements, which are mostly of an administrative nature, can be **time consuming** and taking up valuable management time that could be better used for value adding purposes.

It therefore makes sense to seriously consider the use of external service providers for this purpose, thus avoiding the need to employ additional staff while **freeing up management** time to focus on high level of aspects of the business.



In today's highly regulated business environment, directors and officers face increasing duties and responsibilities, the failure of which could result in **personal liability**. For companies listed on the **JSE Limited**, there are additional rules and compliance requirements that again expose both the company and the individual directors to material penalties.

Not only is there "the law" where compliance is mandatory, but there is also **corporate governance**, where compliance might not be "mandatory" but ignorance and a disregard for what is commonly accepted as good practice could potentially result in substantial "egg on the face" of office bearers – some recent examples of this comes to mind in the "sport industry"!

Based on our profile, iThemba equals:

- Integrity and professionalism;
- Highly experienced, motivated employees;
- A wide network and database;
- A library of intellectual property to assist clients in their governance needs; and
- The requisite knowledge of and or experience in relevant laws pertaining to the duties and responsibilities of a company secretary

WHY ITHEMBA?

iThemba is responsible for the company secretarial and corporate governance duties of a number of listed, unlisted (private and public sectors) and specific BEE companies. It is proud of its reputation for **timely and professional service** and support, based on the **highest level of integrity**.

iThemba also has a **Level 2 BEE** rating.

THE ITHEMBA TEAM

With a total compliment of 18 staff members, iThemba is well positioned to provide the required services to clients. Members of the executive management team include:



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Experience isn't Expensive...it's Priceless



DIRECTORS

Annamarie van der Merwe (B.Luris, LLB, LLM) has been a corporate lawyer and company secretary of companies in the listed environment for more than 20 years. She is a member of the King Committee on Corporate Governance for South Africa and was actively involved in the writing of King III, focusing specifically on the chapter dealing with boards and directors. Annamarie is also a well-known presenter of workshops for directors and company secretaries on issues such as board effectiveness, statutory duties and liabilities and effective meetings.

Dr Annette de Klerk (BCom (Hons), MCom, DCom) is an experienced professional manager. Annette's Doctoral thesis was in Entrepreneurship and Small Business Development. She has a wealth of experience in teaching, research and training at tertiary level as well as developmental training in the fields of finance, strategy, management, small business management and entrepreneurship. Annette has proven expertise in governmental compliance issues, supply chain management and procurement, PFMA, MFMA, and other related regulatory legislation. She further specialises in Project Management, Corporate Governance with specific emphasis on Integrated Reporting and Board Assessments..

ITHEMBA VALUE ADDED SERVICES

STATUTORY SERVICES INCLUDE:

- Custodian of all statutory documents, minute books and related documents.
- Maintain statutory records of the companies (this includes amendments to company information).
- Submit all required documents to CIPC, including the annual returns and financial statements.
- Maintain registers required in terms of the Companies Act.
- Preparation of round robin resolutions and lodgement with CIPC if applicable.
- Maintain electronic updated version of all statutory documents on a database.
- Maintain directors' declaration.
- Deregistration and voluntary liquidations of companies.

MEETING MANAGEMENT SERVICES INCLUDE:

- Compiling the board and board committee work plans.
- Manage relevant meeting calendars.
- Draft agendas for board, board committees and annual general meetings.
- Preparation of meeting packs.
- Delivery of meeting packs to attendees.
- Meeting attendance.



- Drafting minutes of board, board committees and annual general meetings.
- Assistance and guidance to the board of directors to ensure compliance with relevant statutory and governance requirements.

JSE REQUIREMENTS SERVICES INCLUDE:

- Liaison with transfer secretary and sponsor.
- Facilitate publication of all required SENS announcements, including changes to board of directors, director trading in shares and cautionary and other announcements.
- Facilitate submissions of documents to the JSE.

OTHER SERVICES

INTEGRATED REPORTING

The King III Report calls for organisations to prepare an integrated report, recognising that the impact of the organisation on the environment and society, and related reputational issues, are material issues that can affect the very existence of the organisation.

An integrated report is not simply an amalgamation of the financial statements and the sustainability report. It incorporates material information from these and other sources to enable stakeholders to evaluate the organisation's performance and to make an informed assessment about its ability to create and sustain value. Managing the Integrated Reporting process places pressure on management, mostly the financial manager, to project-manage and direct this process.

Allow iThemba with its experience and resources to project manage your integrated reporting process for you. Expert advice on content and context, report writing, proof reading – all this could form part of your turnkey solution. Get rid of the "reporting headache" and let iThemba drive this for you!

TRAINING

In today's highly regulated environment, it is imperative for directors and executive management to have a clear understanding of the legislative environment within which the entity operates as well as the extent of possible personal exposure and liability. As a facilitator of the Institute of Directors and regular presenter of workshops to boards and management, Annamarie van der Merwe is ideally suited to assist your company and its office bearers in obtaining the relevant information and guidance to enable them to not only execute their functions in an effective manner but to also limit the possibility of personal liability.



BOARD ASSESSMENTS

King III recommends that a board of directors should annually assess the performance of the board, board committees and individual directors. iThemba has been involved in the assessment of board performance for a number of clients, including ECIC and Eskom (public sector) and Bankserv, ATKV and others (private sector).

GOVERNANCE ASSESSMENTS

Currently the King Report on Corporate Governance for South Africa, 2009 (King III) together with relevant legislation, sets the standard and principles for corporate governance in South Africa. There are two main challenges concerning this:

- King III has to be interpreted and understood as to how its principles apply against the context of the nature, size and complexity of the organisation or entity, in order to implement its recommendations;
- There is a need for credible and generally accepted national benchmark to measure how various organisations are performing in relation to governance.

In order to meet the above two challenges, the governance assessment instrument (GAI) was developed. The GAI is in the form of an automated web-based tool that serves as both a measure and an enabler of good corporate governance structures, policies and procedures. It is also establishing a benchmark for governance reporting.

iThemba offers the service of assessing the prevailing level of corporate governance in the organisation, followed by reporting, recommendations and re-assessment after recommendations have been implemented. For listed companies this is an ideal way of addressing the JSE requirements on corporate governance reporting.

OTHER SERVICES

- Compilation and revision of governance related policies such as the delegation of authority policy.
- Board induction and induction manuals.
- Compilation and revision of board charters and committee terms of reference.
- Guidance to directors on corporate governance outside board and committee meetings.
- Sourcing and assistance with placement of non-executive directors.
- Assistance with compliance to legislation and regulatory requirements.

iThemba Governance & Statutory Solutions (Pty) Ltd

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