

THE FREE MARKET  
FOUNDATION  
(SOUTHERN AFRICA)  
CONSTITUTION

This Amended Constitution was approved at a  
Special General Meeting held  
on 19 August 2021 in Substitution for the existing  
Constitution of the Foundation

Signed: \_\_\_\_\_  
Chairman of the Meeting

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## 1. DEFINITIONS AND INTERPRETATION

1.1. In this Constitution, unless the context clearly indicates otherwise, the following words and expressions bear the meanings assigned to them and cognate words and expressions bear corresponding meanings:

- 1.1.1. **“Annual General Meeting”** means the General Meeting referred to in clause 19.1;
- 1.1.2. **“Board”** shall have the meaning ascribed thereto in clause 13.1;
- 1.1.3. **“Board Member”** means a person elected to the Board;
- 1.1.4. **“Constitution”** means this Constitution;
- 1.1.5. **“Director”** means a paid member of staff of the Foundation in a senior position;
- 1.1.6. **“Executive Committee”** means the executive committee appointed by the Board in terms of clause 16.1;
- 1.1.7. **“Foundation”** has the meaning ascribed thereto in clause 2;
- 1.1.8. **“General Meeting”** means a general meeting of the Members, and shall include an Annual General Meeting;

- 1.1.9. **“Individual Members”** means natural persons admitted as members in accordance with clause 8;
- 1.1.10. **“In Good Standing”**, when used in reference to a Member, means a Member who:
- 1.1.10.1. has been a Member of the Foundation for at least 60 (sixty) days;
  - 1.1.10.2. for the purposes of nominating Board Members in accordance with clause 13, has been a Member of the Foundation for at least 1 (one) year; and
  - 1.1.10.3. whose Membership Fees are fully paid up;
- 1.1.11. **“Juristic Members”** means artificial or juristic persons, organisations or associations (including, but not limited to companies, organisations representing any section or sections of the private sector or organisations representing special interest or interests in the private sector) admitted as members in accordance with clause 8;
- 1.1.12. **“Juristic Member Representative”** means the duly authorised representative of a Juristic Member notified in writing to the Foundation by the Juristic Member, provided that a Juristic Member shall only be entitled to have 1 (one) such representative at any given time;
- 1.1.13. **“Members”** means Juristic Members (including Juristic Member Representatives where applicable) and Individual Members, collectively and individually as the context may require;
- 1.1.14. **“Membership Fees”** means any and all fees, subscriptions or contributions contemplated in clause 8.3;
- 1.1.15. **“Present”**, when used in relation to a General Meeting, means to be present in person, or able to participate in the General Meeting by electronic communication, or to be represented by a proxy who is present in person or able to participate in the meeting by electronic communication;
- 1.1.16. **“President”** means an Individual Member In Good Standing, who is appointed as the president of the Foundation in accordance with clause 11.1;

- 1.2. all the headings and sub-headings in this Constitution are for convenience only and are not to be taken into account for the purposes of interpreting it;
- 1.3. an expression which denotes:
  - 1.3.1. any gender includes the other genders;
  - 1.3.2. a natural person includes a juristic person and vice versa; and
  - 1.3.3. the singular includes the plural and vice versa;
- 1.4. any words or expressions defined in any provision of this Constitution shall, unless the application of any such word or expression is specifically limited to that provision, bear the meaning assigned to such word or expression throughout the whole of this Constitution, notwithstanding that that term has not been defined in this interpretation provision;
- 1.5. any reference to a notice shall be construed as a reference to a Written notice, and shall include a notice which is transmitted electronically in a manner and form such that the notice can be conveniently printed by the recipient within a reasonable time and at a reasonable cost;
- 1.6. unless otherwise provided in this Constitution, defined terms appearing herein in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning;
- 1.7. references to day/s, month/s or year/s shall be construed as Gregorian calendar day/s, month/s or year/s; and
- 1.8. references to times are to times in South Africa.

## 2. **NAME**

The Association shall be called "The Free Market Foundation (Southern Africa)" (hereinafter called the "**Foundation**") of which the provisions herein contained shall be the Constitution.

## 3. **OBJECTS AND GUIDING PRINCIPLES**

### 3.1. *OBJECTS*

The Foundation's objects shall be:

- 3.1.1. the promotion and advocacy of human rights and democracy based on classical liberal principles. Including —

- 3.1.2. the promotion of access to media and a free press.
- 3.1.3. the promotion and fostering of the philosophy of the open society, the rule of law and personal and economic freedom.
- 3.1.4. the promotion of the interests of Members and all who live in Southern Africa by working for an environment that will facilitate the achievement of high economic growth and the reduction of poverty and unemployment.
- 3.1.5. the promotion, development and fostering of free enterprise and market economies on a national and international basis.
- 3.1.6. the education of the general public regarding sound economic principles.
- 3.1.7. the furthering of the above objects by any appropriate lawful means.

### 3.2. *GUIDING PHILOSOPHICAL PRINCIPLES*

The guiding principles of the Foundation shall be:

- 3.2.1. that all people have the right to life and the right to conduct it as they see fit, provided they do not impinge upon the similar rights of any person.
- 3.2.2. that amongst the most fundamental rights of all persons is the right to own and control property and the produce of their own efforts and to dispose of it as they see fit.
- 3.2.3. that no person or group has the right to initiate violence or the threat of violence against any other person or group.
- 3.2.4. that the only economic system consistent with the abovementioned fundamental rights is a market economy, in a free unfettered market in which all persons are at liberty to deal with their property and conduct their affairs according to their own individual needs and motives.

No resolution, recommendation or proposal shall be passed or made that is inconsistent with the above four principles.

4. **OFFICE**

The head office of the Foundation will be situated in Johannesburg or at such other place within the Republic of South Africa as the Board may decide.

5. **STATUS**

5.1. The Foundation shall be a body corporate with perpetual succession and capacity in its own name to acquire rights and incur obligations independently of its Members.

5.2. No Member shall have any right, title or interest to or in any of the assets, property or funds of the Foundation.

5.3. The profits, income and property of the Foundation wheresoever derived shall be applied solely towards the promotion of its objects, and no portion thereof shall be paid or transferred, directly or indirectly by way of dividend, bonus, or otherwise by way of profit to its Members: provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the Foundation or to any Member in return for services rendered to the Foundation.

5.4. The liability of Members shall be limited to any amount due by such Members to the Foundation by way of subscriptions or Membership fees.

6. **POWERS OF THE FOUNDATION**

The Foundation shall have plenary powers to enable it to realise its objects including, but not by way of limitation, the following common powers:

6.1. to purchase or acquire in any way equipment and every other kind or description of movable and immovable property required in the operation of the activities of the Foundation, as well as to sell or otherwise dispose of such property, as provided for in clause 6.2;

6.2. to manage, insure, sell, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with its undertaking or all or any part of its property and assets;

6.3. to apply for, purchase or by any other means acquire, protect, prolong and renew any patents, patent rights, licences, trade marks, concessions or other rights and to deal with and alienate them as provided in clause 6.2;

- 6.4. to borrow money;
- 6.5. to secure the payment of moneys or other obligation in any manner including the mortgaging and pledging of property;
- 6.6. to lend money to any person or company;
- 6.7. to invest money in any manner;
- 6.8. to open and operate banking accounts and to overdraw such accounts;
- 6.9. to form and have an interest in any company or companies for the purpose of acquiring the undertaking or all or any of the assets or liabilities of the company or for any other purpose which may seem, directly or indirectly, calculated to benefit the Foundation;
- 6.10. to amalgamate with other organisations not for gain having the same or similar objects;
- 6.11. to remunerate any person or persons for services rendered to it;
- 6.12. to make donations;
- 6.13. to undertake and execute any trust;
- 6.14. to act as principals, agents, contractors or trustees;
- 6.15. to pay gratuities and pensions and establish pension schemes in respect of its directors, officers and employees;
- 6.16. to enter into contracts outside the Republic and to execute any contracts, deeds and document in any foreign country;
- 6.17. to have a seal and to use such seal for any purpose in the Republic or in any foreign country; and
- 6.18. to do all things and bind itself to carry out all such undertakings as may be necessary for or incidental to fulfil all the objects or guiding principles or guiding philosophical principles set out in this Constitution.



## 7. MEMBERS

7.1. There shall be two classes of Members of the Foundation, namely:

7.1.1. Juristic Members (Corporate and Organisation); and

7.1.2. Individual Members.

7.2. No applicant for Juristic Member or Individual Member shall be entitled to become a Member if, in the reasonable opinion of the Board, that prospective Member's prior conduct is inconsistent with free market principles and the principles of classical liberalism. Each applicant for Juristic Member or Individual Member shall sign an application for membership form which shall contain a commitment to the foregoing principles. The signature of an applicant on such a form shall be *prima facie* evidence of the applicant's commitment to such principles

## 8. ADMISSION TO MEMBERSHIP

The Board may from time to time:

8.1. prescribe the manner and method in which applications for membership will be made;

8.2. admit persons as Juristic Members or Individual Members where such persons meet the requirements set out in clause 7.2 and any other requirements set out in this constitution and no person shall be admitted as a Member unless that Membership has been approved by the Board which shall not be entitled unreasonably to refuse admission to membership;

8.3. fix and determine rates of entrance fees, subscriptions or contributions, which will be payable in such manner and at such times and for such periods as the Board may determine, provided that different rates of entrance fees, subscriptions or contributions (if any) may from time to time be fixed for the different classes of Members, subject to the following:

8.3.1. the minimum annual membership fee for Individual Members shall be R300.00 (three hundred Rand) which amount shall be increased at the discretion of the Board; and

8.3.2. the minimum annual membership fee for Juristic Members shall be R5000.00 (five thousand Rand), provided that in respect of Juristic Members who are non-profit companies, non-profit organisations and/or

public-benefit organisations, the minimum annual membership fee shall be R1000.00 (one thousand Rand), which amount shall be increased at the discretion of the Board.

## 9. TERMINATION OF MEMBERSHIP

- 9.1. Membership of the Foundation shall terminate:
- 9.1.1. by resignation;
  - 9.1.2. on the death of an Individual Member or the dissolution of a Juristic Member;
  - 9.1.3. if Membership Fees are not paid within 14 (fourteen) calendar days of the invoice due date after notice has been given by the Foundation that Membership will be terminated unless the Membership Fees outstanding have not been paid within 14 (fourteen) calendar days of that notice;
  - 9.1.4. if so determined following disciplinary proceedings contemplated in clause 10.
- 9.2. If the membership of any Member is for any reason terminated such Member shall nonetheless remain liable for all unpaid subscriptions, fees or contributions and other liabilities of whatsoever nature (if any) then owing by such Member to the Foundation, which shall automatically and immediately become due and payable upon termination of membership.

## 10. DISCIPLINARY PROCEEDINGS

### *Disciplinary Committee*

- 10.1. The Executive Committee shall appoint a disciplinary committee ("**Disciplinary Committee**") consisting of one Board Member and two Executive Committee members to conduct disciplinary proceedings in the event that a Member:
- 10.1.1. commits any wilful breach of this Constitution;
  - 10.1.2. is guilty of improper or dishonest conduct;
  - 10.1.3. is guilty of conduct unbecoming or prejudicial to the interests or reputation of the Foundation (including but not limited to acting in a

manner, or advocating for a cause, which is contrary to the free market principles and/or the principles of classical liberalism).

- 10.2. The Disciplinary Committee shall appoint:
  - 10.2.1. a person to take minutes at disciplinary proceedings; and
  - 10.2.2. a member of the Executive Committee not on the Disciplinary Committee to act as prosecutor before the Disciplinary Committee and to present evidence on behalf of the Foundation in a particular case.
- 10.3. The Disciplinary Committee shall afford both the prosecutor and the accused Member a reasonable opportunity to present their respective cases and shall consider all the evidence presented by the prosecutor and by or on behalf of the Member before making its decision.
- 10.4. A Member charged before a disciplinary committee may be assisted in proceedings before the Disciplinary Committee by another Member of his or her choice and the person presiding over the Disciplinary Committee shall inform the Member concerned of this right before the proceedings commence.
- 10.5. The Disciplinary Committee shall, within 3 days, inform the Member concerned in writing of its finding and decision, stating the reasons for such finding and decision.
- 10.6. If the Disciplinary Committee finds an accused Member guilty of an infringement as charged it shall have the power to:
  - 10.6.1. issue the Member with a warning and/or a stern rebuke;
  - 10.6.2. expel such Member and terminate his membership;
  - 10.6.3. cause a notice setting out the decision of the Disciplinary Committee to be circulated to the Members;
  - 10.6.4. suspend such Member for any length of period it deems fit; and/or
  - 10.6.5. take such other steps as it may deem fit in the circumstances of the case.

### *Appeal*

- 10.7. If a Member feels aggrieved as a result of a decision by the Disciplinary Committee, the Member may, within 7 days of being informed of the decision of the Disciplinary Committee, in writing appeal to the Board, stating the reasons for the appeal.
- 10.8. The Board shall consider the appeal on the minutes of the Disciplinary Committee, the finding and reasons and may in whole or in part, confirm, revoke or amend the decision of the Disciplinary Committee.
- 10.9. The decision of the Board shall be final and binding on all concerned.

## **11. PRESIDENT AND VICE PRESIDENT OF THE FOUNDATION**

- 11.1. Should the Board deem it appropriate, it may appoint a President and Vice President for a period of time and under terms proposed by it and agreed by the candidate/s.
- 11.2. Neither the President nor Vice President shall have any administrative, management, executive or financial authority within the Foundation and shall not be entitled to bind the Foundation.
- 11.3. The President or Vice President may be removed from office by majority vote of the Board, provided that before making such a decision, the President or Vice President (as applicable) must be given an opportunity to address the Board and provided further that no removal shall be valid if contrary to any written agreement entered into with the President or Vice President in relation to his tenure.
- 11.4. If a vacancy arises for President or Vice President, either due to his resignation, removal in terms of clause 11.3 or otherwise, a new President or Vice President may be appointed by the Board should it deem it appropriate.

## **12. MANAGEMENT AND CONTROL**

- 12.1. Subject only to the powers of the Members in General Meeting which are expressly given to the Members in this Constitution, and the powers of the Executive Committee, all the powers of the Foundation shall be vested in the Board, which shall have full power to manage and conduct all the business and affairs of the Foundation, and shall in all things act in the name of the Foundation and in particular, but not by way of limitations, the Board shall:
  - 12.1.1. be responsible for determining within the scope of the objects of the Foundation and not repugnant to this Constitution, the policy governing

the affairs of the Foundation and no other Committee of the Foundation or Board Member shall take any action contrary to the policy so established provided that the Board shall always be entitled to deviate from that policy by way of resolution of the Board. The policy so determined shall be contained in a document known as the "FMF Policy Book", which shall be available to Members on request;

- 12.1.2. have power to make by-laws, rules and regulations not repugnant to this Constitution for the conduct and working of the Foundation and any of its Committees and to revoke, amend and add to such by-laws, which by-laws, rules and regulations shall be available to members on request and available on the website at the Board's discretion;
  - 12.1.3. have power from time to time to constitute or establish any subsidiary, ad hoc, local or other committees or bodies as it may deem fit for any purpose and to determine the scope of operations, powers and activities and the rules for the procedure of such committees or bodies;
  - 12.1.4. determine and decide any matter not specifically provided for in this Constitution;
  - 12.1.5. institute, conduct, defend, settle, compound and/or abandon any legal proceedings by or against the Foundation, or any of its officers or otherwise concerning the affairs of the Foundation;
  - 12.1.6. subject to 15.1, meet as often as it may deem desirable to enable it effectively to discharge its duties and obligations to the Foundation and its members.
- 12.2. Between meetings of the Board the business and affairs of the Foundation will be conducted by the Executive Committee, who shall have such powers and perform such functions and duties relating to the conducting of the business and affairs of the Foundation as the Board may from time to time determine or which may be expressly accorded to the Executive Committee by this Constitution.
- 12.3. The Foundation shall not be permitted to distribute any of its surpluses or gains to any person and is required to utilise its funds solely for investment or the objects for which it has been established subject to the proviso in clause 5.2.
- 12.4. The Foundation shall not be permitted to accept any donation that is revocable at the instance of the donor for reasons other than a material failure to conform to the

designated purpose and conditions of such donation, including any misrepresentations as 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 that is exempt in terms of section 10(1)(cA)(1), which has as its sole or principal object the carrying on of any public benefit activity) may not impose any condition that could enable the donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

**13. BOARD COMPOSITION, ELECTION AND PERIOD OF OFFICE OF THE BOARD**

13.1. The board of the Foundation (the "Board") shall consist of at least 5 (five) but not more than 15 (fifteen) members elected by the Members at an Annual General Meeting from candidates nominated by Members in accordance with clause 13.6. Board Members need not be Members at the time of election, but must become Individual Members upon being elected (if not already an Individual Member).

13.2. The election of Board Members is to be conducted as follows:

13.2.1. each candidate's name shall be printed on a ballot paper, together with a tick-box alongside each name;

13.2.2. each Member In Good Standing shall be entitled to vote for up to 15 (fifteen) candidates, provided that if there are fewer than 15 (fifteen) candidates, the Member will only be entitled to vote for such lower number of candidates. For the avoidance of doubt, no Member shall be allowed to vote against a candidate;

13.2.3. the 15 candidates with the most votes will be elected (or if there are 15 (fifteen) or fewer nominees, all candidates will be elected), provided that a candidate may only be so elected if he has received at least 2 (two) votes;

13.2.4. in the event of a tie (i.e. 2 (two) or more candidates receive the same number of votes for the last position on the Board), such candidates will go into a run-off election, with Members In Good Standing being entitled to vote for 1 (one) of the run-off candidates. The candidate with the most votes will be elected.

13.3. If there are fewer than 15 Board Members at any time, the Board may by majority vote co-opt additional members to the Board and such appointment shall remain in force until the holding of the next Annual General Meeting at the commencement of

which such co-opted Board Members shall be deemed to have resigned. Such co-opted Board Members need not be Members, but must become Individual Members upon being co-opted (if not already an Individual Member).

13.4. If the number of Board Members falls below 5 (five), the Board shall only operate to co-opt additional members in accordance with clause 13.3.

13.5. Each Board Member shall serve from the date of their election or co-option (as applicable), until the earlier of:

13.5.1. the next Annual General Meeting;

13.5.2. his resignation;

13.5.3. his death;

13.5.4. termination of his membership following disciplinary proceedings contemplated in clause 10.

13.6. Nominations for persons to serve on the Board must be in writing, signed by a proposer, one Board Member and one Executive Committee member, and lodged with the Foundation at least 14 calendar days prior to the Annual General Meeting at which the nominations are to be voted upon, provided that only a Member who is In Good Standing and who has been a Member for at least 1 (one) year may propose a nomination.

#### 14. **OFFICERS OF THE BOARD**

The elected members of the Board shall at every first meeting immediately after the Annual General Meeting elect from amongst themselves a Chairman and a Deputy Chairman, who shall serve as such until termination of office for any reason, or until the next election as aforesaid, or for such shorter period as the Board may deem fit. A retiring Chairman or Deputy Chairman or any other Board Member shall be eligible for re-election any number of times.

#### 15. **PROCEEDINGS OF BOARD**

15.1. The Board shall meet as often as it or the Chairman may determine but at least four times per annum.

15.2. The Chairman shall at the request of any three Board Members convene a meeting of the Board or shall be entitled to convene a board meeting himself.

- 15.3. A quorum for a Board meeting shall include at least two elected non-executive members of the Board or such greater number as shall be decided from time to time by the incumbent Board during its tenure. Executive members of the Board are such persons as are employees of the Foundation who have been elected to the Board.
- 15.4. The manner and method of voting at Board meetings shall be determined by the Board and failing the Board by the Chairman provided that all members of the Board will have equal voting rights.
- 15.5. The manner, method and period of notice of Board meetings may be determined by the Board from time to time, and of any other committee meetings by the Board in respect of such meeting, or failing such determination by such committee at its first or any subsequent meeting, provided that in all if nothing to the contrary is determined the provisions of clauses 28.1 to 28.4 inclusive shall be deemed to apply.
- 15.6. Any Member even if not a Board Member or any other person, even if not a Member, shall on the invitation of the Chairman, be entitled to attend and speak at a Board meeting but not to vote thereat.
- 15.7. Written Board resolutions may be passed without the need for a meeting provided a majority of the board sign that resolution and provided the resolution was distributed to the entire board before contemporaneously.
- 15.8. Subject to the foregoing, the Board Members shall regulate their meetings as they deem fit.
- 15.9. Any elected Board Member shall be entitled to nominate an alternate for a particular meeting or an adjournment thereof, but not for a period, save with the consent of the Board. Such nominations shall be transmitted to the secretary by email or otherwise in writing prior to the meeting concerned. An alternate shall be a member.

**16. EXECUTIVE COMMITTEE**

- 16.1. The Executive Committee shall consist of at least 5 (five) persons, provided that the Executive Committee may still take decisions and operate even if its number has fallen below 5 (five), provided that there is still a quorum. If the number falls below the quorum, the Executive Committee shall only operate to co-opt additional members. Executive Committee members shall be selected from amongst the Board Members or the employees or contractors of the Foundation (or the employees or officers of such contractors).



- 16.2. The initial Executive Committee shall comprise of those persons who are currently on the Executive Committee as at the date of the adoption of this Constitution. Thereafter, any vacancy on the Executive Committee shall be filled by co-option in accordance with 16.6, subject to approval of the Board at the next Board meeting.
- 16.3. Board Members shall be eligible to serve on the Executive Committee and continue to serve on the Board.
- 16.4. A quorum for an Executive Committee meeting shall be 3 (three) members of the Executive Committee.
- 16.5. Decisions of the Executive Committee may be made by round-robin resolution.
- 16.6. The Executive Committee may by majority vote co-opt additional Executive Committee members to the Executive Committee, and fill any vacancies on the Executive Committee, and such appointment shall remain in force until the holding of the next Board meeting when the co-opted Executive Committee members may be confirmed provided that if the co-option is not confirmed by the Board then that person will not be eligible to be co-opted again without the consent of the Board.
- 16.7. There shall be no term of office for members of the Executive Committee, save that a Member of the Executive Committee shall cease to be such if he ceases to satisfy the criteria in clause 16.1 or is removed in accordance with clause 16.8.
- 16.8. An Executive Committee member may be removed from office by majority vote of the Executive Committee (from which vote such person shall be excluded), provided that before making such a decision, the Executive Committee member must be given an opportunity to address the Executive Committee and provided further that no decision to remove an Executive Committee member will be final until approved by the Board.
- 16.9. The Executive Committee shall be entitled to determine the procedure applicable to their meetings in addition to but not in contrast to any contained in this Constitution.

## 17. **OFFICERS OF THE EXECUTIVE COMMITTEE**

The Executive Committee shall elect a chairman from among its number who shall have the responsibility of organising and chairing Executive Committee meetings and carrying out such duties as the Board may determine from time to time. The Executive Committee may elect a deputy chairman to act in the absence of the chairman in such matters as it may determine.

**18. POWERS AND FUNCTIONS OF THE EXECUTIVE COMMITTEE**

18.1. The powers and functions of the Executive Committee shall be determined by the Board from time to time, but shall, unless and until otherwise determined by the Board which shall have power to add to, deviate from or change the powers listed below, include:

- 18.1.1. engaging in the raising of membership subscriptions, contributions, sponsorships and donations to ensure that the Foundation remains financially sound;
- 18.1.2. maintaining an ongoing monthly review of revenue raising;
- 18.1.3. determining the working priorities of the Foundation to present to the Board for approval;
- 18.1.4. overseeing the preparation of the annual income and expenditure budget of the Foundation and presenting this to the Board for approval;
- 18.1.5. overseeing work progress, staff matters and administration and reviewing and approving interim financial statements and reports at regular Executive Committee meetings;
- 18.1.6. reviewing and approving audited financial statements prior to their presentation to the Board and the Members; and
- 18.1.7. employing and/or terminating the employment/services of Foundation employees, contractors and/or service providers and delegating or assigning such powers and duties to such personnel upon and subject to such conditions as the Executive Committee may determine.
- 18.1.8. procuring the payment of all costs, charges or expenses incidental to or for the promotion, formation, operation and/or establishment of the Foundation, whether incurred for the benefit of the Foundation prior to the coming into force of this Constitution or otherwise.

**19. GENERAL MEETINGS**

- 19.1. The Foundation shall hold at least one General Meeting during each calendar year, which meeting shall be known as the Annual General Meeting.
- 19.2. Further General Meetings may be convened at the discretion of the Board.

- 19.3. If:
- 19.3.1. at least 25 Members In Good Standing, who have each been a Member for at least 1 (one) year request that the Board convene a General Meeting; and
  - 19.3.2. such request is in writing, signed by each of the aforementioned 25 (twenty five) Members, and sets out in detail the reasons for which the meeting is required; and
  - 19.3.3. the proposed Business of such General Meeting is not unconstitutional and the resolutions proposed fall within the powers of the Members as referred to in this Constitution,

the Board shall be obliged to call a General Meeting, within 60 (sixty) days to deal with matters contained in the written request, and any other business so determined by the Board.

- 19.4. The Executive Committee shall be responsible for assisting the Chairman of the Board to prepare for the General Meeting including so as to ensure the good and effective administration of all General Meetings, and shall prepare the necessary agendas and send out notices and supporting documentation for such General Meetings.
- 19.5. A General Meeting may be conducted partially or entirely by way of electronic communication, so long as the electronic communication employed ordinarily enables all persons participating in that General Meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the General Meeting and provided that the Executive Committee has unanimously resolved that the General Meeting will be conducted electronically.

## 20. **PROCEEDINGS AT GENERAL MEETINGS**

- 20.1. 10 Members Present shall constitute a quorum at any General Meeting.
- 20.2. The Chairman of the Board or in his absence the Deputy Chairman shall preside at all General Meetings. In the absence of the Chairman and the Deputy Chairman, the Members Present may elect a Chairman for that meeting by a majority vote on a show of hands.
- 20.3. In the absence of a quorum, a General Meeting shall stand adjourned to the same time and place on the following weekday not being a public holiday and the Members

then present shall constitute a quorum for that meeting. If the same place be not available on such following weekday, the Members Present may, by majority vote on a show of hands, decide upon an alternative place.

## 21. PROXIES

- 21.1. Any Member In Good Standing may designate any other Member In Good Standing to act as their proxy at a General Meeting, by filling in, dating, and signing the proxy form made available by the Executive Committee of the Foundation in a form determined by the Executive Committee of the Foundation , provided that no Member In Good Standing may act as a proxy for more than one other Member In Good Standing.
- 21.2. The Member In Good Standing designating another person as their proxy must deliver or cause to be delivered to the member of staff whose name appears on the proxy form, a proxy form for verification at least 48 hours prior to the start of the General Meeting. Proxy forms revealed within 48 hours of the General Meeting will be deemed to have not been verified and will therefore be invalid.

## 22. VOTING AT GENERAL MEETINGS

- 22.1. At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded and, unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the Foundation shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 22.2. If a poll is duly demanded it shall be taken in such a manner as the Chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. Scrutineers shall be elected by the Executive Committee (or failing the Executive Committee) by the Chairman, to declare the result of the poll and their decision, which shall be given by the Chairman of the meeting, shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 22.3. A poll may be demanded on the election of a Chairman (should a Chairman or Deputy Chairman not be in attendance to chair a General Meeting) after a request for that poll by any Member. A poll demanded on any other question shall be taken at such time as the Chairman of the meeting directs. The demand for a poll shall not

prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.

22.4. Each Member In Good Standing, Present at a General Meeting, or, in the case of Juristic Members, through their duly appointed representatives, shall be entitled to one vote on a show of hands or on a poll.

22.5. At all General Meetings the Chairman shall have a deliberative vote but shall not have a casting vote. If the vote is a tie, the resolution fails.

## 23. **BUSINESS AT GENERAL MEETINGS**

23.1. The ordinary business of the Annual General Meeting shall be:

23.1.1. to approve the minutes of the previous General Meeting;

23.1.2. to receive and consider the Chairman's and any other annual reports and the auditor's report and audited financial statements;

23.1.3. to pose questions regarding the operation, policy and work of the Foundation;

23.1.4. to elect Board Members for the forthcoming year, including an opportunity to pose questions to persons nominated as Board Members. For the sake of clarity all Board Members elected at the previous Annual General Meeting or co-opted since then shall be deemed to have resigned immediately before the election of Board Members for the forthcoming year but shall be eligible for re-election if nominated and approved as per clause 13.5;

23.1.5. to appoint auditors.

23.2. Any business at a General Meeting not being ordinary business shall be special business.

23.3. The business at any General Meeting other than the Annual General Meeting shall be such special business as the notice for such meeting or the agenda accompanying such notice may specify.

23.4. No special business shall be transacted at any General Meeting unless the notice thereof sets out the general nature thereof.

Save as otherwise provided, each general meeting other than an Annual General Meeting shall for all other purposes be deemed to be a Special General Meeting.

**24. SPECIAL PROVISION CONCERNING MOTIONS OF BOARD**

A resolution in writing signed by all Members of the Board present and reasonably accessible in the Republic of South Africa at the date of the resolution shall be as valid and effectual as if it had been passed at a duly constituted Board meeting provided notice of that resolution has been given to all members contemporaneously.

**25. MINUTES OF MEETINGS**

25.1. The Board shall cause minutes of its meetings and of General Meetings to be kept in books to be provided for that purpose. The minutes shall indicate, inter alia:

25.1.1. all resolutions passed;

25.1.2. the names of all Members present at each meeting;

25.1.3. the proceedings of meetings as may be recorded by the secretary or secretaries thereof.

**26. ACCOUNTS**

26.1. The Board shall cause:

26.1.1. true accounts to be kept of monies received and expended by the Foundation and of the assets and liabilities of the Foundation;

26.1.2. proper accounting records to be kept as are necessary fairly to present the state of affairs of the Foundation and explain its transactions and financial position.

**27. ANNUAL ACCOUNTS**

The Board shall cause to be prepared and to be laid before the Foundation at its Annual General Meeting a balance sheet and income statement as at the end of and covering the last completed financial year, which balance sheet and income statement shall be accompanied by a report by the Auditors.

**28. NOTICE OF MEETINGS**

28.1. In respect of any General Meeting, such notice of General Meeting must be mailed at least 28 (twenty-eight) days before the date on which the General Meeting is

scheduled (exclusive of the day on which the notice is deemed to be served but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting, and in the case of special business the general nature of such business (provided that the meeting agenda and the names of persons nominated as Board Members (in the case of an Annual General Meeting) shall be mailed at least 7 (seven) days before the General Meeting), shall be given in the manner hereinafter mentioned or in such other manner as may be prescribed by the Foundation in General Meeting, to such Members as are in terms of this Constitution entitled to receive notice, but the non-receipt of any notice by any Member shall not invalidate the proceedings at any General Meeting.

28.2. Notice in terms of 28.1 shall be given to every Member except those who have not supplied the Foundation an address within the Republic of South Africa for the giving of notices to them.

28.3. Any notice may be given by the Foundation or the Board to any Member either personally, by email, fax, or by sending it by post to his registered address in the Republic of South Africa supplied by him to the Foundation for the giving of notices to him.

28.4. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and (unless the contrary is proved) to have been effected on the third day after posting.

29. **CUSTODY OF BOOKS**

The records of the Foundation shall be kept at such place or places as the Board shall think fit and shall always be open to inspection by any Member of the Board or Executive Committee.

30. **INSPECTING OF BOOKS**

The Board shall from time to time determine at what times and places and under what conditions and regulations the accounts and books of the Foundation or any of them shall be open to inspection of Members In Good Standing not being members of the Board or Executive Committee, and no Members (not being members of the Board or Executive Committee) shall have any right to inspect any account or book or document of the Foundation except as authorised by the Board or by the Foundation in General Meeting or otherwise required by law.

31. **FINANCIAL YEAR**

The financial year of the Foundation shall be from 1st March to the last day of February.

32. **PAYMENTS**

The Board or its duly authorised finance committee shall from time to time determine which persons shall act as signatories of the Foundation's payment instruments and any two of those persons shall be required to sign or approve all Foundation payments.

33. **REGISTER OF MEMBERS**

The Board shall cause a Register of all Members and their addresses, if any, to be kept.

34. **INDEMNITY**

Every officer or servant of the Foundation shall be indemnified by the Foundation against all costs, losses and expenses which he or they may incur or become liable to by reason of any act or thing done by him as such in the discharge of his duties unless the same happen through his or their own negligence, default, breach of duty or breach of trust.

35. **AGREEMENT BY MEMBERS**

Each Member, by virtue of his membership, shall be deemed to have agreed to abide by the provisions of this Constitution and any by-laws, rules and regulations made in terms thereof and to have agreed to pay to the Foundation any subscriptions, fees or contributions fixed or determined from time to time as applicable to Members of the membership group to which the Member belongs or to him individually.

36. **ADDITIONAL FINANCE**

36.1. Contributions, Donations, etc.

The Foundation may receive contributions, grants, donations and the like.

36.2. Other Revenue

The Foundation may receive revenue from any other source whatsoever, including, without limitation to the generality of the foregoing, the sale of goods or the rendering of services of any description.



**37. DISSOLUTION**

37.1. The Foundation may, subject to such conditions as a General Meeting may determine, be dissolved by a resolution passed by not less than two-thirds of the Members of the Foundation Present at a General Meeting called especially for that purpose.

37.2. If upon winding-up or dissolution of the Foundation there remains, after the satisfaction of all its debts and liabilities, any property or assets whatsoever, the same shall not be paid to or distributed among the Members, but shall be given or transferred to another public benefit organisation having objects similar to those of the Foundation, to be determined by the Members in General Meeting at or before the time of dissolution. Provided that in giving or transferring the property or assets to another public benefit organisation the Foundation shall comply in all respects with such requirements of the Income Tax Act as may be applicable to it at the time of such dissolution.

**38. AMENDMENT OF CONSTITUTION**

This Constitution may be amended by a resolution passed by a two-thirds majority vote by Members In Good Standing at a General Meeting the notice of which specified the intention to propose and the terms and effect of the amendment and it shall be within the powers of the Members to propose amendments to the Constitution and to requisition a meeting to vote on those amendments, subject to compliance with clause 19.