



CAPE CHAMBER
OF COMMERCE & INDUSTRY

DRAFT CONSTITUTION
of the
CAPE CHAMBER OF COMMERCE AND INDUSTRY
2021

INTRODUCTION

Guide for interpretation content

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OF COMMERCE & INDUSTRY

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1. DEFINITIONS

“**AGM**” means the Annual General Meeting of Members;

“**Audit Committee**” means the Standing (Permanent) Committee undertaking audit governance tasks;

“**Auditor**” means the independent auditor of the Chamber from time to time;

“**Board**” means the Board Members;

“**Board Committee**” means a committee of the Board established for temporary purposes defined by Board instructions;

“**Board Members**” means members of the Board;

“**Board Committee Experts**” means persons as defined by the Board who have specialist expertise, experience and knowledge in the areas of specialisation so defined by the Board and who will serve to advise the Chamber in a reliable and trustworthy way;

“**Board Compliance Officer**” means the officially appointed person who acts in a secretarial capacity to manage the proper governance administration of the Board and its records and notices;

“**Business Strategy**” means the annually Board approved plans directed for the achievement of the financial business forecasts;

“**Chamber**” means the Cape Chamber of Commerce and Industry;

“**Chamber Term**” means the period between ratification of official positions at the AGM to the following AGM;

“**Chapters**” means the geographical area concerned with representing Chamber interests and activities and so described as a Branch of the Chamber;

“**Chapter Committees**” means a committee of a Chapter;

“**Chapter Secretariat**” means the Chamber employee tasked with the administrative duties of respective Chapters;

“**Chief Executive Officer**” means the person so appointed and who performs the duties and is accountable for managing the Executive functions of the Chamber;

“**Commissioner**” means the person or persons appointed by South African Revenue Services;

“**Confidential Ballot**” means voting at meetings by Members where identity of voters remain undisclosed;

“**Connected Persons**” means anyone with official representative duties whether these be in being a Council, Board or Committee member or as co-opted for serving Chamber interests in any ways; as having a business, employed by the same company, familial or other ‘connection’, employed by the same company with each other that may suggest a conflict of interest when working with or representing Chamber interests;

“Co-opt(ing)” means the process and appointment of Board Members by the Board, without having to undergo Council election;

“Constitution” means this document;

“Council” means the council of the Chamber;

“Deputy President” means the Deputy President of the Chamber;

“Establishment” means the Board approved number of Jobs in the Executive organisation that constitutes the different employment posts of Chamber salaried employees;

“Exco” means the executive committee of the Chamber;

“Executive” means the employed persons responsible for the day-to-day execution of strategy and achievement of the business plan;

“Fiduciary Care” means the duty of any holders of official positions within the Chamber organisation to consider the best interests of the Chamber in any decisions or recommendations made;

“Financial Plans” means the financial budgeting, planning, forecasting and supervision provided by the Finance Committee and the execution and reporting thereof at Board meetings by the Executive;

“Financial Year” means the financial year of the Chamber;

“Forum” means an ad-hoc committee established by the Board for a specific purpose;

“Honorary Members” means honorary Members of the Chamber;

“Honorary Treasurer” means the honorary treasurer of the Chamber;

“Life Members” means life Members of the Chamber;

“Members” means subscribing Members of the Chamber or persons deemed by the Board, or its delegate, to qualify as representatives of such subscribing members for all purposes of the Chamber and include past Presidents of the Chamber and Honorary Members and **“Membership”** has a corresponding meaning;

“Members by Office” means persons who are Members of the Chamber by office (*ex officio*);

“Members Meeting” means an AGM or SGM;

“Members Register” means the register of Members;

“Objectives” means the objectives of the Chamber;

“Office” refers to ‘official Chamber Position’ as described below;

“Official Chamber Position” refers to all members holding positions on or within the Board, Board Committees, Council, Portfolio Committees, and Chapters;

“Ordinary Members” means ordinary Members of the Chamber;

“Overriding Powers” means the authority of the Board to over-ride decisions or proposals made by its subordinate ranks whether these be individuals, committees, chapters or other representative bodies reporting to the Board as indicated in the Organisation chart in the Appendix;

“Portfolio Committees” means portfolio committees of the Council;

“Pre-AGM Board Meeting”

“President” means the president of the Chamber;

“Proxy” means a duly recognised representative of a Member who is authorised via the necessary legal means of a power of attorney or a signed and certified affidavit by the Member, so being represented for voting purposes on behalf of the Member;

“Region” means the Western Cape Province and any other areas identified by the Board;

“Related Members” means a “Connected Person” as described above;

“Remuneration Structures” means the system of employment grading, appointment and salary determination practiced by the Executive in managing employee remuneration and decided by the Board using the advice of the Remuneration Committee;

“Resolutions – Ordinary Member” means a resolution of Ordinary Members adopted with the support of more than 50% of the voting rights exercised by Ordinary Members on that resolution at a Members Meeting;

“Resolutions – Special Member” means a resolution of Members adopted with the support of at least 75% of the voting rights exercised by Ordinary Members on that resolution at a Members Meeting;

“Resolutions – Board” means a resolution of Board Members adopted by the majority of Board Members;

“Secret Ballot” means a “Confidential Ballot” as described above in this document;

“South Africa” means the Republic of South Africa;

“SGM” means a special general meeting of the Members;

“Subscription” means the dues to be paid by Members that entitle them to participate in Chamber activities, events and forums and to receive attributable value benefits so intended by the Chamber as the voice of business;

“Substantive Powers” means the powers defined by South African law;

“Urgent Issues” means issues that require attention and responses that cannot be adequately managed within scheduled meetings;

“Vetting Committee” means the committee of the Chamber;

“Vote” means to vote by a "show of hands" unless specifically requested otherwise in terms of this Constitution;

“VONC” or “Vote of No Confidence” means the process of voting out any official representative Chamber structure or committee (Board / Council / Standing or Portfolio Committees / Branch Chapters / Ad-hoc Committees) wherein the representative members of that structure or committee decide by a majority vote that any of its members or representatives is unworthy of their position and/or falls short of their required contribution, and should be removed from that structure or committee;

Different grammatical forms of the same words have the same meaning.

In this Constitution, save as clearly stated otherwise in this Constitution –

- the heading of the Constitution and clause headings are for ease of reference only and are not used to interpret the Constitution;
- a reference to (i) a gender includes the other genders, (ii) a natural person includes a juristic person, and the other way around, and (iii) the singular includes the plural, and the other way around.

“**Business hours**” are the hours between 08h30 and 17h00 on a business day;

“**Days**” are calendar days unless qualified by the word "business", and then a "**business day**" is a day other than a Saturday, a Sunday or an official public holiday in South Africa;

“**Include**” means to include without limitation;

“**Law**” means a law of general application and includes the common law and a statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or another legislative measure of government (including local and provincial government), statutory or regulatory body which has the force of law in South Africa;

“**Person**” includes a company, close corporation, trust, partnership or other entity whether or not having separate legal personality;

“**Writing**” means readable writing in English and includes email and any other form of electronic communication set out in the Electronic Communications and Transactions Act, No 25 of 2002;

- examples are illustrative only and do not limit what else might be included;
- substantive terms in this Interpretation and Definitions clause have effect as if they were substantive terms in the body of the Constitution;
- a reference to a statute (i) is interpreted as a reference to that statute as at the Signature Date and as amended or substituted from time to time, and (ii) includes regulations and other enactments under that statute;
- a number of days is determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next business day;
- if the due date for doing something is a day which is not a business day then the due date is the prior business day.

2. CHAMBER PURPOSE & OBJECTIVES

2.1. Purpose & Objectives

The Chamber (CAPE CHAMBER OF COMMERCE & INDUSTRY) exists for the *Purpose* of serving its Members best interests and to achieve the following *Objectives* not limited to:

2.1.1. To provide valuable and relevant **SERVICES** to its Members that support their:

- 2.1.1.1 Business growth & development interests;
- 2.1.1.2 Information for best business practices;
- 2.1.1.3 Representation and advocacy interests;
- 2.1.1.4 Networking opportunities;
- 2.1.1.5 Appropriate lobbying needs.

2.1.2. To foster **ECONOMIC GROWTH** through:

- 2.1.2.1 Promoting an Investor-attractive business environment;
- 2.1.2.2 Promoting Membership Business growth through relevant business skills-development, coaching, mentorship and training programmes;
- 2.1.2.3 Promoting sensitive environmental care and practices.

2.1.3. To **REPRESENT** Members' best interests by:

- 2.1.3.1 Maintaining international networking and links that serve Members' interests;
- 2.1.3.2 Serving the local Communities' business interests where Members are located;
- 2.1.3.3 Employing skilled and competent staff capable of serving Members effectively and efficiently and for achieving Chamber objectives.

2.1.4. To support and encourage **GOOD GOVERNANCE** in terms of the following:

- 2.1.4.1 Business accounting and accountable management practices;
- 2.1.4.2 Transformation, diversity and inclusion;
- 2.1.4.3 Subscribing to accepted codes of business practice that direct and regulate relevant legislation;
- 2.1.4.4 Ethical and moral business conduct.

2.2. Vision, Mission, Value Proposition

- 2.2.1 **Vision:** Serving, Enabling and Leading Business in the Western Cape.
- 2.2.2 **Mission:** To serve the interests of business and our members through representing their views and providing services of value.
- 2.2.3 **Value Proposition:** Delivering meaningful business opportunities for member companies through extensive local and global networks and strategic interventions.

2.3. Organisation Structure

The organisation structure can be found in the Addendum to this constitution under Addendum 2 “Chamber Organogram”.

3. LEGAL STATUS

3.1. Jurisdiction & Intent

- 3.1.1. The Chamber (Cape Chamber of Commerce and Industry) was incorporated as the Cape Town Chamber of Commerce under the Cape Town Chamber of Commerce Act, 1891. (ANNEXURE ‘A’).
- 3.1.2. The Chamber is constituted with the intention of conducting its service activities within the Western Cape in a non-profit manner and in the interests of its Members so defined herein, and in alignment with relevant laws that promote and regulate good business governance in South Africa today.
- 3.1.3. All business activities conducted by the Chamber are carried out for the benefit of its Members and without promoting or facilitating the economic self-interest of any Board, Council, Committee or staff members concerned with the provision of services other than for compensating their time and expertise with fair exchange.

- 3.1.4. The Chamber is organised for the achievement of its Objectives and through the governance and fiduciary care that intends to achieve Chamber sustainability and growth with human compassion and environmental sensitivity.

4. MEMBERSHIP

4.1. Members

The Chamber has the following types of Members, namely –

- 4.1.1 Ordinary Members;
- 4.1.2 Honorary Members;
- 4.1.3 Members by Office; and
- 4.1.4 Life Members.

4.2. Ordinary Members

- 4.2.1. Any person (as defined) may apply to become an ordinary Member ("**Ordinary Member**").
- 4.2.2. If a person wishes to apply for Ordinary Membership, then the person shall apply in writing in the way fixed by the Board.
- 4.2.3. The Board may approve or decline applications for Ordinary Membership as it deems fit and without giving reasons for its decision.
- 4.2.4. Ordinary Members have the right to vote at Members Meetings.

4.3. Honorary Members

- 4.3.1. The Board may make rules which may be amended from time to time about the nomination and enrolment of honorary members ("**Honorary Members**"), including requirements for enrolment.
- 4.3.2. The Board may enrol as an Honorary Member, any person who, in the opinion of the Board should be enrolled as such.
- 4.3.3. Honorary Members enjoy all the privileges of Ordinary Members, including for certainty the right to vote at Members Meetings.
- 4.3.4. Honorary Members are not liable for payment of any Subscriptions.
- 4.3.5. Past Presidents shall be admitted as Honorary Members in their personal capacity.

- 4.3.6. Honorary members are enrolled for one Chamber term with no limitation on the number of consecutive terms for which they can be enrolled.
- 4.3.7. The AGM shall approve the enrolment of new Honorary Members by Ordinary Resolution each year.
- 4.3.8. The Board can decide to revoke the Honorary Membership of a member, including Past Presidents, if they deem it to be in the best interests of the Chamber.

4.4. Members by Office

All Board Members are Ordinary Members by office (*ex officio*) ("**Members by Office**").

4.5. Life Members

- 4.5.1. The Board may make rules which may be amended from time to time about the nomination and appointment of life members ("**Life Members**"), including requirements for appointment.
- 4.5.2. The Board may enrol as a Life Member any person who, in the opinion of the Board, has rendered valuable service to the Chamber.
- 4.5.3. Life Members enjoy the same privileges as Ordinary Members but are not liable for payment of any Subscriptions.
- 4.5.4. The AGM shall approve the appointment of Life Members by Ordinary Resolution.
- 4.5.5. The Board determines the process to enrol Life Members.
- 4.5.6. Life Members have no right to vote at Members Meetings.

4.6. General

- 4.6.1. The Chamber shall always have at least three Ordinary Members.
- 4.6.2. There is no limit on the maximum number of Ordinary Members.
- 4.6.3. There is no limit on the minimum or maximum number of Honorary Members or Life Members.
- 4.6.4. If the number of Ordinary Members falls below three, the remaining Ordinary Members and/or Honorary Members shall determine whether or not it would be in the best interest of the Chamber to be wound up, having due regard to the non-profit sector's best practice.
- 4.6.5. A Member may not transfer his or her Membership, or any rights attaching to the Membership to any person without the Board's prior written consent.

4.7. Subscriptions

- 4.7.1. Members shall pay annual Subscriptions to the Chamber as determined from time to time by the Board.
- 4.7.2. A Member shall pay the first Subscription on the date that the Member is enrolled and then on each anniversary of that date, or such other date as determined by the Board.
- 4.7.3. Members shall pay Subscriptions:
 - 4.7.3.1 in cash at the main office of the Chamber; or
 - 4.7.3.2 by electronic funds transfer or debit orders, free of set-off or deductions, to the bank account named by the Board.

4.8. Rights of Members

- 4.8.1. Members enjoy all the privileges and facilities of the Chamber.
- 4.8.2. Each Member has the right –
 - 4.8.2.1 to inspect, and to get copies of the annual financial statements of the Chamber; and
 - 4.8.2.2 to receive notice of, and to attend and speak at Members Meetings.
- 4.8.3. Only Ordinary Members and Honorary Members have the right to vote at Members Meetings.

4.9. End of Membership

- 4.9.1. A Member may end his or her Membership on prior written notice to the Chamber of not less than 30 days.
- 4.9.2. A Member automatically stops being a Member if –
 - 4.9.2.1 where the Member is a natural person, his or her estate is sequestrated;
 - 4.9.2.2 where the Member is not a natural person it is wound up, deregistered or placed under business rescue;
 - 4.9.2.3 he or she fails or refuses to pay his or her Subscription, or any other money that he or she owes to the Chamber when due; but the debts remain due to, and recoverable by the Chamber despite Membership having stopped; but he or she may be readmitted as Member if the Board so decides and if he or she has paid the arrears;

- 4.9.2.4 he or she fails or refuses to comply with this Constitution or any code of conduct adopted by the Board; or
 - 4.9.2.5 he or she is convicted of any crime involving dishonesty, or any other offence deemed serious enough by the Board to damage the Chamber's reputation.
- 4.9.3. If a Member is a natural person, and his or her estate is sequestered then he or she may, on rehabilitation, make a fresh application for Membership if he or she wishes to become a Member again.

4.10. Expulsion and Suspension

- 4.10.1. If the Board thinks that the conduct of a Member and the interests of the Chamber so require, it shall investigate the matter and may then decide to –
- 4.10.1.1 expel the Member; or
 - 4.10.1.2 for a stated period, suspend his or her Membership.
- Before making a decision for expulsion or suspension, the Board shall give the Member a chance to make representations, either verbally or in writing, as the Board may deem fit.
- 4.10.2. The decision of the Board is final.
- 4.10.3. An expelled or suspended Member –
- 4.10.3.1 has no claim against the Chamber; and
 - 4.10.3.2 is not refunded any Subscription or part thereof already paid by the Member.

4.11. Register of Members

- 4.11.1. The Chamber shall maintain a register ("**Members Register**"), in the form of an electronic database or another form as the Board may determine.
- 4.11.2. The Chamber shall keep the Members Register at its main office and keep a copy or back-up of such information at a separate location.
- 4.11.3. The name and contact details of every Member shall be entered in the Members Register.
- 4.11.4. The Chamber shall regularly update the Members Register and remove the names of persons who have stopped being Members. The Chamber shall update the Members Register at least once a year.

5. GOVERNING STRUCTURE, FUNCTIONS & APPOINTMENTS

Chamber corporate governance is defined as the exercise of ethical and effective leadership by the governing body towards the achievement of the following governance outcomes:

- I. Ethical culture and effective leadership;
- II. Business Sustainability: good performance and value creation;
- III. Effective control: adequate and effective controls with informed oversight; and
- IV. Legitimacy: trust and confidence in the organisation by stakeholders and the communities in which it operates.

5.1. Chamber

The Chamber shall consist of the following structures that include Office Bearers as indicated herein:

- I. Board
- II. Exco
- III. Board Committees
- IV. Council
- V. Vetting Committee
- VI. Portfolio Committees
- VII. Chapter Committees
- VIII. Chamber Staff

- 5.1.1 The Chamber shall exist in its own right to serve its Members.
- 5.1.2 The Chamber exists separately from its Members and will continue to exist even when its membership changes and the governing structure is altered.
- 5.1.3 The Chamber will be able to own property and other possessions and be able to sue and be sued in its own name.
- 5.1.4 The Chamber may acquire and hold securities in profit companies, with the exception that the Chamber may not have a share or other interest in any business, profession or occupation which is carried on by its Members.
- 5.1.5 The Chamber will continue to seek exemption from income tax in terms of the relevant provisions of the Income Tax Act, No 58 of 1962 and such other tax exemptions as the Commissioner for the South African Revenue Service may allow.

- 5.1.6 No single person may directly or indirectly control the decision-making powers of the Chamber.
- 5.1.7 The Chamber may not directly or indirectly distribute any of its funds or assets to any person other than in the course of furthering its Objects.
- 5.1.8 The Chamber shall use substantially the whole of its funds for the Objective.
- 5.1.9 No Member may directly or indirectly have any personal or private interest in the Chamber.
- 5.1.10 The Chamber not pay to any employee, office bearer, member or other person any remuneration which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.
- 5.1.11 The Chamber's funding shall be derived from Subscriptions and its other revenue generating activities as decided from time to time and that are directed through services provided for the benefits of its Members.
- 5.1.12 The Chamber shall comply with such reporting requirements as may be determined by the Commissioner from time to time.
- 5.1.13 The Chamber may not knowingly become a party to, and may not knowingly permit itself to be used as part of an impermissible avoidance arrangement contemplated in sections 80A and 80L of the Income Tax Act, or a transaction, operation or scheme contemplated in s 103 of the Income Tax Act.
- 5.1.14 All Chamber employees, Board Members, Council Members and Committee members shall sign the Chamber Code of Conduct, Ethics Policy and adhere to this constitution.

5.2. Board

The Board is the highest governing body and authority within the Chamber.

5.2.1. Functions of Board

The Board exists to:

- 5.2.1.1. preserve and secure the assets and enterprise of the Chamber, and ensure the continuity & sustainability of its business activities and functions;
- 5.2.1.2. oversee the payment of the expenses and liabilities of the Chamber out of money received by the Chamber;

- 5.2.1.3. approve and monitor the progress of major capital expenditure, capital management and acquisitions and divestments;
- 5.2.1.4. approve and monitor financial and other reporting;
- 5.2.1.5. prepare an annual Business Strategy and manage the objectives therein for achievement;
- 5.2.1.6. prepare, approve, and manage the annual Financial Plans and Budget for achievement;
- 5.2.1.7. approve and implement auditable Policies and Procedures that delegate authority limits and define standard operating standards for managing the Chamber's financial and administrative affairs and its Member services for their satisfaction;
- 5.2.1.8. manage the performance of the Chief Executive Officer and Board Committees;
- 5.2.1.9. Direct senior management's performance and implementation of strategies and ensure appropriate resources are available;
- 5.2.1.10. respond and attend to problems and urgent issues that may emerge from time to time;
- 5.2.1.11. set and manage the remuneration structures and fair-reward systems for Chamber Staff;
- 5.2.1.12. manage board appointments, removals and succession planning, and provide the Vetting Committee with the methodology and framework for Board Performance Reviews;
- 5.2.1.13. form portfolio committees and chapters;
- 5.2.1.14. elect Portfolio Committee members from nominations received from Members;
- 5.2.1.15. elect Chapter Committee members from nominations received from Members;
- 5.2.1.16. conduct and record decisions and resolutions at scheduled or extraordinary Board meetings, and implement actions as required for application achievements;
- 5.2.1.17. establish and elect the Audit Committee every three years and the Risk Management Committee annually;
- 5.2.1.18. manage and monitor systems of risk management and internal compliance and control, codes of conduct and legal compliance;
- 5.2.1.19. perform such tasks with fiduciary care and make decisions that are within its jurisdiction and authority, and clearly illustrate to serve the best interests of the Chamber and its Members.

5.2.2. Composition of Board

- 5.2.2.1 The Board shall consist of at least eight Board Members:
- 5.2.2.1.1 seven Board Members elected by the Council; and
 - 5.2.2.1.2 The Immediate Past President of the Chamber, or if not available, the preceding available Past President.
- 5.2.2.2 The Board may co-opt (but is not obliged to co-opt) no more than three individuals to be members of the Board in addition. Those individuals shall be eligible to be Board Members under this Constitution and are vetted by the Board. Those individuals need not be Chamber Members but will have all the rights and responsibilities of a Board Member.
- 5.2.2.3 A failure by the Chamber to have the minimum number of Board Members does not generally limit or negate the authority of the Board, or nullify anything done by the Board or the Chamber, but the reduced Board may only:
- 5.2.2.3.1 preserve and secure the assets and enterprise of the Chamber, and ensure the continuity of its business activities and functions; and
 - 5.2.2.3.2 promptly start the process of appointing additional Board Members as may be required, including the calling of a meeting of the Vetting Committee for that purpose; provided that if there is no Board Member able or willing to act, then any Member may start that process and call that meeting.

5.2.3. Eligibility & Term of Office of Board

- 5.2.3.1 To serve as a Board Member a person shall be eligible to serve as a director as if the terms of the Companies Act, No. 71 of 2008 would apply.
- 5.2.3.2 Only members in good standing can serve as a Board Member and attend Board meetings, except in the case where a non-member has been co-opted onto the Board.
- 5.2.3.3 No Board Member may hold a remunerated position within any registered political party.

- 5.2.3.4 The term of a Board member, is one year from Board Member ratification at the AGM; or one Chamber Term between Board Member ratification at the AGM to the following AGM in the case where the Chamber Term is more than or less than one year.
- 5.2.3.5 If the term for a co-opted Board Member has not been determined by the Board, then the co-opted Board Member is subject to the same term, rules and provisions applicable to Council-elected Board Members, including the retirement rules.
- 5.2.3.6 Two Board Members from Board, (from both Council-elected and co-opted Board Members), are deemed to have retired at the end of the Pre-AGM Board Meeting with the assumption that the Board Member stepping down as President will not have to re-apply to become a Board member and if not re-elected as President, automatically holds the position of Immediate Past President for the following term.
- 5.2.3.7 The order in which the Board Members are deemed to have retired is –
- 5.2.3.7.1 first, the Board Members who choose to retire;
 - 5.2.3.7.2 second, if the vetting committee recommends to the Board that a Board Member be retired based upon their performance review, the Board shall consider the notion and make a determination;
 - 5.2.3.7.3 third, an appointed Board member that has served five consecutive terms of office is deemed to have retired and shall undergo the vetting and re-election process in order to continue serving;
 - 5.2.3.7.4 fourth, if the number of Board Members from the preceding instances do not make up the number of Board Members who are deemed to have retired, then the Board Members who have been in office for the most days in aggregate in all their terms are deemed to have retired;
- 5.2.3.8 All retiring Board Members, including those that have served five consecutive terms of office, may be nominated and re-elected and shall undergo the vetting and re-election process in order to continue serving.

5.2.4. **Appointment of Board Members**

The Council elects seven Board Members via confidential ballot. The Board shall consist of at least eight persons, who are not connected persons (as that term is defined) in relation to each other, to accept the responsibility of the Chamber.

5.2.5. **Appointment of President, Deputy President & Honorary Treasurer**

5.2.5.1. At the Pre-AGM Board Meeting, the newly constituted Board shall elect from its number a President, a Deputy President, and an Honorary Treasurer for the upcoming term and whose terms will come into effect immediately after the AGM.

5.2.5.2. Permission is granted for newly Council-elected and co-opted Board Members to attend and participate in the voting process of the Pre-AGM Meeting for the express purpose of electing the President, Deputy President, and Honorary Treasurer for the upcoming term, despite this meeting taking place before official ratification of the new Board members at the AGM.

5.2.5.3. The President –

5.2.5.3.1. means the duly elected President of the Chamber;

5.2.5.3.2. presides at all Members Meetings and all other meetings of the Chamber at which he or she is present;

5.2.5.3.3. is by office (*ex officio*) a member of all Committees duly formed except for the Vetting Committee;

5.2.5.3.4. has the authority usually vested in a chairman of a meeting including the authority to –

5.2.5.3.4.1 keep order;

5.2.5.3.4.2 direct the manner of debate upon all issues introduced; and

5.2.5.3.4.3 has a second or casting vote if presiding.

5.2.5.4. The Deputy President –

5.2.5.4.1. means the duly elected Deputy President of the Chamber; and

5.2.5.4.2. in the absence of the President, acts for the President and possess and exercise all the rights, privileges and powers of the President.

5.2.5.5. The Honorary Treasurer –

5.2.5.5.1. means the duly elected Honorary Treasurer of the Chamber;

5.2.5.5.2. shall monitor the financial administration of the Chamber; and

5.2.5.5.3. shall report to the Board and Council at regular intervals on the state of its financial health, in line with best practice, and in compliance with legal requirements.

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5.2.6. **Cessation of Board Member Positions**

A Board Member, the President, Deputy President and Honorary Treasurer stop holding office-

5.2.6.1. immediately when he or she becomes ineligible or disqualified or the Board resolves to remove him or her on that basis;

5.2.6.2. when his or her term of office expires under this Constitution;

5.2.6.3. when he or she dies;

5.2.6.4. when he or she resigns by prior written notice to the Board;

5.2.6.5. if the Board determines that he or she has become incapacitated to the extent that he or she is unable to perform the functions of their Office, and are unlikely to regain that capacity within a reasonable time;

5.2.6.6. if he or she is removed by the Board for being negligent or derelict in performing his or her functions;

- 5.2.6.7. if he or she is removed by the Board for bringing the Chamber into disrepute;
- 5.2.6.8. if he or she (i) files an application for sequestration or debt review, (ii) commits an act of insolvency as defined in the insolvency law in force, or (iii) makes any arrangement or composition with his or her creditors post default;
- 5.2.6.9. if he or she is otherwise removed under this Constitution;
- 5.2.6.10. if the Board so decides, if he or she is absent from three consecutive Board meetings or events arranged by the Chamber occurring within a period of six consecutive months without the leave of the Board;
- 5.2.6.11. stops being eligible to serve as a director in terms of the Companies Act, No 71 of 2008; or
- 5.2.6.12. should the vetting committee recommend to the Board that a Board Member be dismissed based upon results of their performance review, the Board shall consider the motion and make a determination

5.2.7. **Removal and/or sanction of Board Members**

- 5.2.7.1. A Vote of No Confidence procedure can be tabled without prior notice at a Board Meeting, should one or more Board members deem it necessary for a fellow Board Member to be removed based upon reasons cited in Clause 5.2.6 or for any reasons considered valid by majority vote of the Board.
- 5.2.7.2. In the case where a Vote of No Confidence is tabled against a Board Member, should that Board Member not wish to respond immediately they can opt to reply within seven working days.
- 5.2.7.3. Should the Board decide that the reasons cited require further investigation, the Boards may form a sub-committee to conduct a preliminary investigation to clarify the issues and the extent of dissatisfaction among the ranks before proceeding with the Vote of no Confidence.
- 5.2.7.4. In order to avoid a Vote of No Confidence and if the Board deems it necessary, a direct intervention may be used to ask a Board Member to leave the board. If the Board Chair has been having regular discussions with the Board Member about performance and both parties agree, a clear time frame on when the Board Member will resign or be relieved of their duties shall be put in place.

- 5.2.7.5. The Vote of no Confidence procedure shall entail the following –
- I. Reasons are to be cited
 - II. The Board Member in question shall be afforded an opportunity to respond accordingly
 - III. The Board Member in question shall be recused from the voting process
 - IV. Secret ballot voting procedure shall take place
 - V. The two thirds majority vote shall be affected by board resolution to affect the removal
 - VI. The results shall be communicated to the Board Member in question
- 5.2.7.6. The outcome of the vote should lead the board to decide whether to remove the Board Member with immediate effect, implement other sanctions, or to retain the Board Member and implement monitoring or mentoring conditions.
- 5.2.7.7. Should an allegation be made against a Board Member/s at an annual general meeting, the board shall then call a Board meeting to determine the matter. If the Board determines that the allegations have merit, the Board Member/s may be removed by an ordinary resolution of the members at an SGM so convened for the purpose, and after the Board Member has been given the opportunity to make representations.

5.3. Exco

5.3.1. Functions of Exco

The function of Exco is to oversee the implementation of operational decisions relating to the day-to-day running of the Chamber's affairs between Board meetings as well as to oversee, manage and assist the Chief Executive Officer. The Honorary Treasurer shall oversee all financial activities of the Chamber and report to the Board on such matters.

5.3.2. **Composition of Exco**

Exco consists of –

- 5.3.2.1 the President;
- 5.3.2.2 the Deputy President;
- 5.3.2.3 the Honorary Treasurer; and
- 5.3.2.4 the Immediate Past President of the Chamber or if not available, the preceding available Past President

5.3.3. **Eligibility & Term of Office of Exco**

The eligibility and term of the Exco are the same as those that apply to the Board.

5.3.4. **Appointment of Exco**

The Board shall elect from its number a President, a Deputy President, and an Honorary Treasurer for the upcoming term at the Pre-AGM Board Meeting, and whose terms will come into effect immediately after ratification at the AGM.

5.3.5. **Cessation of Exco Positions**

Members of the existing Exco will remain in office until ratification of the new Exco at the AGM unless members are otherwise removed under this constitution.

5.4. **Council**

Council primarily exists to act in an advisory capacity to the Board and the Board determines what matters require the advice of Council.

5.4.1. **Functions of Council**

Council functions are:

- 5.4.1.1 To give advice to the Board on Policy issues;

- 5.4.1.2 To appoint the Vetting Committee; and
- 5.4.1.3 To elect Board Members via confidential ballot.

5.4.2. **Composition of the Council**

Council consists of –

- 5.4.2.1 All Board Members;
- 5.4.2.2 The chairpersons and vice chairpersons of the Portfolio Committees and Board Committees;
- 5.4.2.3 Chairperson and Vice Chairperson from each Chapter;
- 5.4.2.4 10 persons elected by the Board;
- 5.4.2.5 10 persons elected by Council; and
- 5.4.2.6 No more than six recent Past Presidents of the Chamber, available and willing to serve on the Council.
- 5.4.2.7 If there are more than six Past Presidents who are willing and available to serve on Council:
 - 5.4.2.7.1 any one of those Past Presidents may in writing request that the Chief Executive Officer calls a meeting of those Past Presidents. The Chief Executive Officer shall give at least 21 business days' prior written notice of that meeting to those Past Presidents;
 - 5.4.2.7.2 at that meeting, the Past Presidents present in person elect their representatives on the Council save that, for certainty, they cannot elect more than six. This does not preclude a Past President from being elected onto Council in any other capacity or vacancy.

5.4.3. **Eligibility & Term of Office of Council Members**

- 5.4.3.1. Only a member in good standing can serve as a Council Member and attend Council meetings.
- 5.4.3.2. No Council Member may hold a remunerated position within any registered political party.

5.4.3.3. The term of a Council member is one year from Council Member ratification; or one Chamber Term between Council Member ratification at the AGM to the Council Member ratification at the next AGM in the case where the Chamber Term is more than or less than one year.

5.4.3.4. No person may be elected as a Council Member if he or she is ineligible or disqualified as determined by the Board. Any such election is a nullity. A person who is ineligible or disqualified may not consent to be elected as a Council Member and may not act as a Council Member.

5.4.4. **Appointment of Council Members**

5.4.4.1 Council Members are elected via an election process.

5.4.4.2 Only Members in good standing may propose and second nominees to serve on Council.

5.4.4.3 Only Members that are unrelated parties may propose and second nominees to serve on Council.

5.4.4.4 The board shall at least 60 days before each Pre-AGM Meeting invite members by notice to nominate persons to serve as Council Members.

5.4.4.5 All Council Member nominations shall be submitted to the Chamber on the prescribed form. The form shall contain at least:

5.4.4.5.1 the name, consent and signature of the person proposed to be nominated and, if elected, to serve as a Council Member;

5.4.4.5.2 the name and signature of the non-connected proposer;

5.4.4.5.3 the name and signature of the non-connected seconder;

5.4.4.5.4 the curriculum vitae of the nominee shall accompany that form.

5.4.4.6 On receipt of the nomination, the Board shall consider the nomination and suitability of the nominee, then approve or decline the nomination taking into account the following criteria when considering a nomination:

5.4.4.6.1 The nominee shall be an individual of the highest integrity;

- 5.4.4.6.2 The nominee shall be willing and able to devote sufficient time to the affairs of the Chamber;
- 5.4.4.6.3 The nominee shall have knowledge about the Objectives and functioning of the Chamber;
- 5.4.4.6.4 The nominee shall show creativity and leadership in his or her business and community;
- 5.4.4.6.5 Diversity across, among other things, race, gender and age.
- 5.4.4.7 Before the date of the Pre-AGM Board Meeting, the Board shall give the Council a notice listing the approved nominees together with the applicable form and the curriculum vitae of the nominee for each approved nominee, and Council shall have been given the opportunity to elect their 10 Council-elected Members.
- 5.4.4.8 That notice shall also state that any Council member who may be dissatisfied with the names of any approved nominees may, by written notice to the Council, object to the nominations.
- 5.4.4.9 The Board may only consider an objection if it –
- 5.4.4.9.1 is in writing, signed by or on behalf of a Council member;
- 5.4.4.9.2 is delivered to main office of the Chamber at least three days before the date of the Council meeting;
- 5.4.4.9.3 is supported by at least two other Members in good standing (regardless of whether they are Council members or not), in addition to the Council member who objects;
- 5.4.4.9.4 contains substantive reasons and a motivation for the objection.
- 5.4.4.10 The Council shall, at a meeting held before the Pre-AGM Board Meeting (that is, before the relevant AGM), elect the ten Council-elected persons to serve on Council.
- 5.4.4.11 The Board shall, at a meeting held before the Pre-AGM Board Meeting (that is, before the relevant AGM) or round robin, elect the ten Board-elected persons to serve on Council.
- 5.4.4.12 The Board shall approve all other Council Member appointments for representatives of Portfolio Committees, Chapter Committees and Board Committees.

5.4.5. **Cessation of Council Member Positions**

A Council Member immediately stops holding office –

- 5.4.5.1 immediately when he or she becomes ineligible or disqualified or the Board resolves to remove him or her on that basis;
- 5.4.5.2 when his or her term of office expires under this Constitution;
- 5.4.5.3 when he or she dies;
- 5.4.5.4 when he or she resigns by prior written notice to the Board;
- 5.4.5.5 if the Board determines that he or she has become incapacitated to the extent that he or she is unable to perform the functions of their Office, and are unlikely to regain that capacity within a reasonable time;
- 5.4.5.6 if he or she is removed by the Board for being negligent or derelict in performing their functions;
- 5.4.5.7 if he or she is removed by the Board for bringing the Chamber into disrepute;
- 5.4.5.8 if he or she is otherwise removed under this Constitution.

5.4.6 **Process for Removal of a Council Member**

- 5.4.6.1 A Council Member may be dismissed or suspended from office and have their membership revoked in the same manner as ordinary members as determined by Clause 4.10 Expulsion and Suspension.
- 5.4.6.2 If the Board thinks that the conduct of a Council Member and the interests of the Chamber so require, or it receives a complaint of such nature from a Chamber Member, it shall investigate the matter and may then decide to –
 - 5.4.6.2.1 expel the Member; or
 - 5.4.6.2.2 for a stated period, suspend his or her Membership
- 5.4.6.3 Before making a decision for expulsion or suspension, the Board shall give the Member a chance to make representations, either verbally or in writing, as the Board may deem fit.
- 5.4.6.4 The decision of the Board is final.

- 5.4.6.5 An expelled or suspended Council Member –
 - 5.4.6.5.1 has no claim against the Chamber; and
 - 5.4.6.5.2 is not refunded any Subscription or part thereof already paid by the Council Member.

5.5 Chief Executive Officer

5.5.5 Functions of CEO

The following functions shall be achieved in conjunction with the job description and terms of employment as provided by the Board:

- 5.5.5.1 Provide strategic direction; to construct, implement and monitor the annual strategic plan, and to respond tactically to unexpected events at short notice;
- 5.5.5.2 Stakeholder management, raising the Chamber's profile and reputation in conjunction with the President;
- 5.5.5.3 Manage, foster and develop positive working relationships with private and public sector bodies, in conjunction with the Chamber team;
- 5.5.5.4 Engage with Chamber members to reinforce the value-adds available to members, ensuring that there is a net membership growth with substantial retention and minimal attrition;
- 5.5.5.5 Schedule, oversee and manage meetings, ensuring reports and minutes are submitted timeously;
- 5.5.5.6 Effectively manage all staff and provide support and guidance to volunteers in various Chamber committees and sub-committees;
- 5.5.5.7 Ensure that Corporate Governance is maintained;
- 5.5.5.8 Ensure financial sustainability through the generation of revenue and control of costs;
- 5.5.5.9 Improve financial sustainability through planning and implementing new sources of revenue generation and sales;
- 5.5.5.10 Ensure accurate, adequate and timely reporting to the Board;
- 5.5.5.11 Ensure adherence to all Chamber policies and procedures put in place by the Board;

- 5.5.5.12 Maintain and update a Risk Register with a high-level summary being presented to the Board on a quarterly basis;
- 5.5.5.13 Ensure that proper credit management controls and procedures are being adhered to by the relevant staff members;
- 5.5.5.14 Ensure that reported membership of the Chamber comprises members who are in good standing and that members not in good standing are regularly followed up;
- 5.5.5.15 Attend Board meetings by invitation when required to do so in order to provide feedback on operational matters.

5.5.6 Appointment of CEO

The Board shall –

- 5.5.6.1 appoint any person (whether a Member or not) as Chief Executive Officer of the Chamber for a period, at the remuneration and on the other terms as it may deem fit; and
- 5.5.6.2 subject to any contract between the Chamber and the Chief Executive Officer (i) remove him or her, and (ii) appoint some other person as Chief Executive Officer in his or her place.

5.5.7 Eligibility & Term of Office of CEO

- 5.5.7.1 The Chief Executive Officer shall hold the necessary qualifications, skills and experience as determined by the Board.
- 5.5.7.2 To serve as Chief Executive Officer a person shall be eligible to serve as a director as if the terms of the Companies Act, No. 71 of 2008 would apply.
- 5.5.7.3 No Chief Executive Officer may hold any remunerated position within registered political party.
- 5.5.7.4 The Chief Executive Officer term is subject to employment contract.

5.5.8 Cessation of CEO Position

The Chief Executive Officer stops holding office as soon as the employment contract has expired or the Board decides to dismiss him or her in accordance with prevailing legislation.

5.6 Vetting Committee

5.6.1 Functions of Vetting Committee

The functions of the Vetting Committee are –

- 5.6.1.1 to receive, consider, accept or decline, and submit nominations for the appointment of Board Members as set out in this constitution; and
- 5.6.1.2 to review the composition and performance of the Board as a collective once a year considering independence, balance of skills, diversity and gender to fully discharge their roles and responsibilities;
- 5.6.1.3 to review the performance of individual Board Members once a year
- 5.6.1.4 based upon the 5.6.5.2 and 5.6.5.3, provide recommendations to the Board;
- 5.6.1.5 to review and assess all nominees for Portfolio Committees, Chapter Committees and Board Committees; and put forward those accepted nominees to the Board for final approval and election.

5.6.2 Appointment and Composition of Vetting Committee

The Vetting Committee consists of five Council members elected by Council from its members, excluding current or nominated Board members.

5.6.3 Eligibility & Term of Office of Vetting Committee:

- 5.6.3.1 A new Vetting Committee is appointed each year at the start of the new chamber Term.

- 5.6.3.2 To serve on the Vetting Committee a person shall be eligible to serve as a director as if the terms of the Companies Act, No. 71 of 2008 would apply.
- 5.6.3.3 No Vetting Committee Member may hold any remunerated position within any registered political party.

5.6.4 Cessation of Vetting Committee Positions

- 5.6.4.1 The Vetting Committee immediately stops holding office when the new Vetting Committee is appointed for the following term.
- 5.6.4.2 Individual Vetting Committee members can be removed under Clause 4.10 Expulsion and Suspension, of this constitution.

5.6.5 Board Member Nominations & Election

- 5.6.5.1 Only Members in good standing may nominate persons for appointment as Board Members.
- 5.6.5.2 Only unrelated parties to the nominee may act as proposers and seconders to nominate persons for appointment as Board Members.
- 5.6.5.3 The Board shall at least 60 days before each Pre-AGM Board Meeting invite Members by notice to nominate persons for appointment as Board Members.
- 5.6.5.4 A proposer wishing to nominate a person shall give the Vetting Committee the details of the nominee in the form prescribed by the Board. The form shall contain at least:
 - 5.6.5.4.1 the name, consent and signature of the person proposed to be nominated and, if elected, to serve as a Board Member;
 - 5.6.5.4.2 the name and signature of the non-connected proposer;
 - 5.6.5.4.3 the name and signature of the non-connected seconder;
 - 5.6.5.4.4 a written motivation by the nominee indicating the reasons for the nomination, including particulars of the attributes, skills and experience of the nominee; and

- 5.6.5.4.5 a declaration by the proposer that, to the best of his or her knowledge, the nominee is eligible to be a Board Member; and
- 5.6.5.4.6 the curriculum vitae of the nominee shall accompany that form.
- 5.6.5.5 On receipt of a nomination the Vetting Committee shall consider the nomination and the suitability of the nominee, and then approve or decline the nomination.
- 5.6.5.6 When considering a nomination, the Vetting Committee shall take into account and disqualify nominees according to the following criteria:
- 5.6.5.6.1 The nominee shall be an individual of the highest integrity;
- 5.6.5.6.2 The nominee shall be willing and able to devote sufficient time to the affairs of the Chamber;
- 5.6.5.6.3 The nominee shall have knowledge about the Objectives and functioning of the Chamber;
- 5.6.5.6.4 The nominee shall show creativity and leadership in his or her business and community;
- 5.6.5.6.5 The nominee shall know what the duties of persons in a fiduciary position, such as a Board Member, entail;
- 5.6.5.6.6 Nominees shall pass criminal and credit checks in order to be considered suitable;
- 5.6.5.6.7 The Vetting committee shall foster diversity across, among other things, race, gender and age.
- 5.6.5.7 Before the date of the Pre-AGM Board Meeting, the Vetting Committee shall give the Council a notice listing the approved nominees together with the applicable form and the curriculum vitae of the nominee for each approved nominee.
- 5.6.5.8 That notice shall also state that any Council member who may be dissatisfied with the names of any approved nominees may, by written notice to the Council, object to the nominations.
- 5.6.5.9 The Council may only consider an objection if it –
- 5.6.5.9.1 is in writing, signed by or on behalf of a Council member;

- 5.6.5.9.2 is delivered to main office of the Chamber at least three days before the date of the Council meeting;
 - 5.6.5.9.3 is supported by at least two other Members in good standing (regardless of whether they are Council members or not), in addition to the Council member who objects;
 - 5.6.5.9.4 contains substantive reasons and a motivation for the objection.
- 5.6.5.10 The Council shall, at a meeting held before the Pre-AGM Board Meeting (that is, before the relevant AGM), elect the persons to replace the retiring Board Members.
- 5.6.5.11 Council members only have as many votes as there are Board vacancies.
- 5.6.5.12 There is only one round of voting. Only nominees who get 50 percent plus one of the votes of the Council members present at the meeting during that round may be appointed as Board Members. Nominees who receive less than that number of votes shall not be appointed as Board Members. Any remaining vacancy shall then be filled by following the process in the following clauses.
- 5.6.5.12.1 No alternate Board Members may be appointed;
 - 5.6.5.12.2 No election of a Board Member takes effect until he or she has delivered to the Chamber a written consent to serve;
 - 5.6.5.12.3 The Vetting Committee shall fill any casual vacancy on the Board by persons chosen by the Vetting Committee.
- 5.6.5.13 No person may be elected as a Board Member if he or she is ineligible or disqualified. Any such election is a nullity. A person who is ineligible or disqualified may not consent to be elected as a Board Member and may not act as a Board Member.

5.6.6 Board Performance Review

The Vetting Committee shall review the performance of the Board and the individual Board Members every year.

- 5.6.6.1 In consultation with the Board, the Vetting Committee shall use the benchmarks provided by the Institute of Directors of South Africa (IODSA) as a guideline for setting the criteria for which to evaluate the Board, taking into consideration such elements as contribution and attendance where required.
- 5.6.6.2 The results of performance reviews should identify training needs for Board Members.
- 5.6.6.3 The nomination for the re-appointment of a Board Member shall only occur after the review of the performance and attendance of the Board Member at Board Meetings.
- 5.6.6.4 The Vetting Committee shall take into account the following criteria when reviewing the performance of the Board, namely, whether

the Board –

- 5.6.6.4.1 complies with its specific duties under the Constitution;
- 5.6.6.4.2 has set itself clear performance objectives and has measured its performance against them;
- 5.6.6.4.3 formulates business objectives, strategies and plans and regularly monitors their execution;
- 5.6.6.4.4 regularly receives and considers reports on the financial position of the Chamber, and ensures that financial controls are robust;
- 5.6.6.4.5 has responded appropriately to any problems or crises that arose;
- 5.6.6.4.6 communicates well with Members, the Council, Board Committees and outside persons;
- 5.6.6.4.7 formulates policies and practices for significant risks and regularly monitors their execution;
- 5.6.6.4.8 monitors the performance of the Chief Executive Officer and Board Committees;
- 5.6.6.4.9 has appointed qualified employees, and is monitoring their performance; and
- 5.6.6.4.10 has implemented human resources and policies and practices, and is monitoring their execution; and

Individual Board Members–

- 5.6.6.4.11 still comply with the original nomination criteria;
- 5.6.6.4.12 attend, prepare for, and participate in Board meetings;
- 5.6.6.4.13 demonstrate a willingness to devote time and effort to understanding the business of the Chamber;
- 5.6.6.4.14 participate in events outside the boardroom; and
- 5.6.6.4.15 stay informed of developments in business and industry.

5.7 Board Committees

The Board may form any number of Governance and Operational Board committees, which may include but are not limited to:

- I. Governance – Audit (Mandatory under section 5.8)
- II. Governance – Risk Management (Mandatory under section 5.9)
- III. Governance - Remuneration
- IV. Governance – Social and Ethics
- V. Operational - Finance
- VI. Operational – Investment

The Board delegates duties to governance committees and operational committees that provide an in-depth focus on specific areas and assist the Board to discharge its responsibilities. With the exception of the Audit Committee, each committee shall be chaired by a Board Member and certain executives are required to attend committee meetings by invitation. The Board approves the terms of reference for each committee and ensures adherence to corporate governance practices and applicable legislation.

5.7.1 Functions of Board Committees

The Board determines the mandate for each Board Committee.

- 5.7.1.1 Each Board Committee is accountable to the Board for the performance of its delegated functions. The Board is not divested of its overriding or substantive powers by reason of a delegation.

- 5.7.1.2 Any written reports and recommendations issued by a Board Committee shall record any dissenting minority views about the subject matter.
- 5.7.1.3 A Board Committee shall, in the exercise of its powers and functions, conform to any rules, restrictions or procedures imposed on it by the Board, including those relating to quorum, voting, frequency of meetings, and notices.
- 5.7.1.4 Each Board Committee shall draft a policy and procedure document for approval by the Board.
- 5.7.1.5 The Remuneration Committee shall propose policy to the Board and review the key performance indicators used to evaluate the performance of the Chief Executive Officer, senior management and other employees, benchmark remuneration structures and key performance indicators against local peers and best practice, recommend annual salary increase criteria and incentive payments, interview new candidates and conduct exit interviews.
- 5.7.1.6 The Social & Ethics Committee shall propose policy to the Board and is responsible for embedding an ethical culture, ethics governance and the effectiveness of ethics management, ensure ethics within the supply chain and outsourced relationships and ensure relevant legislative compliance.
- 5.7.1.7 The Finance Committee assists the Board in overseeing the budget process. The Finance Committee shall propose policy to the Board and is accountable for providing financial oversight for the Chamber including compiling an annual budget for approval by the Board, monitoring adherence to the approved budget, long-term financial planning, financial reporting to the Board, the creation and monitoring of internal controls and accountability policies, and oversight of financial management employees and financial transactions. The Finance Committee shall comprise of the Chief Executive Officer, the Honorary Treasurer, the Finance Manager and at least two other members.

5.7.1.8 The Investment Committee has an independent role, operating as overseer making recommendations to the Board for its consideration and final approval such as considering investment opportunities in respect of properties, listed securities and other corporate action; assess acquisitions, disposals and capital expenditure in line with the limits of authority delegated to it and in line with the strategy determined by the Board; set criteria and targets for investment, review market valuations by external valuers and service providers; and annually review performance of all investment, asset and property portfolios.

5.7.2 **Appointment and Composition of Board Committees**

5.7.2.1 The Board may delegate to the Board Committees any authority of the Board.

5.7.2.2 To serve on any Board Committee a person shall be eligible to serve as a director as if the terms of the Companies Act, No. 71 of 2008 would apply.

5.7.2.3 The members of the Board Committees may include persons who are not on the Board, however those persons have no vote on a matter to be decided by the Board.

5.7.2.4 The Board may determine the composition and membership of each Board Committee, accept where otherwise stated under this constitution.

5.7.2.5 The chairperson of each Board Committee shall be a Board Member designated by the Board, except in the case of the Audit Committee.

5.7.3 **Eligibility & Term of Office of Board Committees**

5.7.3.1 The Board determines the term of the Board Committees. The Board may change any decisions affecting a Board Committee and may undo any Board Committee, without prior notice and without giving reasons.

5.7.3.2 A person who is ineligible or disqualified to be a Board Member under this Constitution may not consent to be appointed as a member of a Board Committee.

- 5.7.3.3 A person stops being a member of a Board Committee immediately if he or she becomes ineligible or disqualified to be on the Board.

5.8 Audit Committee

5.8.1 Functions of Audit Committee

The function of the Audit Committee is to assist the board in overseeing the annual audit which includes independent oversight and auditing of the Chambers' financial controls and reviewing the effectiveness of the policies and procedures out into place by the Board, the Finance Committee and/or the Chambers' finance department –

- 5.8.1.1 ensure the integrity of the Chamber's financial statements and accounting policies;
- 5.8.1.2 ensure the effectiveness of internal control, governance and financial risk management systems;
- 5.8.1.3 review the annual financial statements;
- 5.8.1.4 generally, review the financial affairs of the Chamber;
- 5.8.1.5 give advice;
- 5.8.1.6 an independent, suitably qualified person shall preside at any meeting of the Audit Committee;
- 5.8.1.7 shall meet regularly with the external auditors without management being present, to facilitate exchange of views and concerns that may not be appropriate for discussion in an open forum;
- 5.8.1.8 the Chamber's Financial Manager and Chief Executive Officer may attend meetings for the purposes of reporting, by invitation only.

5.8.2 Appointment and Composition of Audit Committee

The Audit Committee shall comprise of at least the following –

- 5.8.2.1 the Honorary Treasurer;
- 5.8.2.2 at least one other Board member; and
- 5.8.2.3 a minimum of two and maximum of four independent members with one as Chair.

5.8.3 Eligibility & Term of Office of Audit Committee

- 5.8.3.1 The members of the audit committee should, as a whole, have the necessary financial literacy, skills and experience to execute their duties effectively.
- 5.8.3.2 A person who is ineligible or disqualified to be a Board Member under this Constitution may not consent to be appointed as a member of the Audit Committee.
- 5.8.3.3 No Chamber employee should serve on the Audit Committee.
- 5.8.3.4 The Board shall establish and elect an Audit committee every three years.
- 5.8.3.5 The term for the Audit Committee is three years with only those Audit Committee members being replaced during this term if they are subject to Board rotation and fail to be re-elected as Board members.
- 5.8.3.6 Only Members in good standing can serve on the Audit Committee.

5.9 Risk Management Committee

5.9.1 Functions of Risk Management Committee

- 5.9.1.1 compile a risk register;
- 5.9.1.2 regularly review the risk profile of the Chamber and rate the risks accordingly;
- 5.9.1.3 liaise with the Audit Committee and Finance Committee with regards to financial risks;
- 5.9.1.4 identification, assessment, and management of top business risks and associated opportunities;
- 5.9.1.5 provide oversight of risk appetite and risk tolerance appropriate to each business line of the Chamber;
- 5.9.1.6 draft appropriate policies and procedures relating to risk management governance, risk management practices, and risk control infrastructure for approval by the Board;
- 5.9.1.7 provide recommendations to the Board to capitalise on strategic opportunities;
- 5.9.1.8 assess and monitor technology opportunities and risks, information management and cybersecurity;

- 5.9.1.9 identify and report risks and risk-management deficiencies, including emerging risks;
- 5.9.1.10 make effective and timeous recommendations to the Board for the implementation of corrective actions to address risk management deficiencies;
- 5.9.1.11 make recommendations to the Board regarding employee authority and independence to carry out risk management responsibilities;
- 5.9.1.12 monitor compliance with the Chamber's risk limit structure and policies and procedures relating to risk management governance, practices, and risk controls; and
- 5.9.1.13 meet at least four times during the Chamber term.

5.9.2 **Appointment and Composition of Risk Management Committee**

- 5.9.2.1 The Board shall determine the composition of the Risk Management Committee.
- 5.9.2.2 A Board Member shall chair the Risk Management Committee.

5.9.3 **Eligibility & Term of Office of Risk Management Committee**

- 5.9.3.1 A person who is ineligible or disqualified to be a Board Member under this Constitution may not consent to be appointed as a member of the Risk Management Committee.
- 5.9.3.2 The Board shall establish and annually elect a Risk Management Committee.
- 5.9.3.3 Only Members in good standing can serve on the Risk Management Committees.

5.10 **Portfolio Committees**

5.10.1 **Functions of Portfolio Committees**

- 5.10.1.1 A Portfolio Committee shall subject to this constitution –
 - 5.10.1.1.1 Consider and debate issues that impact on business;
 - 5.10.1.1.2 Develop policy decisions for the Chamber;

- 5.10.1.1.3 Start appropriate action in respect of related business matters when required; and
- 5.10.1.1.4 Report back to Council on developments within their particular economic sector or portfolio.

5.10.2 **Appointment and Composition of Portfolio Committees**

- 5.10.2.1 The Board may permit the formation of Portfolio Committees to benefit Members in a particular economic sector, or with particular business interests.
- 5.10.2.2 The Board may only allow for the formation of a Portfolio Committee if it is satisfied that a reasonable need exists for the Portfolio Committee.
- 5.10.2.3 When allowing the formation of a Portfolio Committee, the Board may impose terms and conditions as it sees fit.
- 5.10.2.4 The Board shall invite Members in writing by means of notifications, and at its office and at other venues as determined by the Board, to nominate persons to serve on Portfolio Committees.
- 5.10.2.5 The Board shall approve and elect all Portfolio Committee Members.

5.10.3 **Eligibility & Term of Office of Portfolio Committees**

- 5.10.3.1 The Board shall determine the election process and the quorum for meeting of Portfolio Committees.
- 5.10.3.2 The Board shall determine the size of each Portfolio Committee.
- 5.10.3.3 The term for Portfolio Committees is one Chamber Term with no restriction on serving successive terms.
- 5.10.3.4 Only Members in good standing can serve on Portfolio Committees.

5.11 **Chapters**

5.11.1 **Functions of Chapters**

- 5.11.1.1 A Chapter Committee shall, subject to this Constitution –
 - 5.11.1.1.1 consider any matter peculiar to its Chapter;

- 5.11.1.1.2 refer appropriate matters to the Board for consideration;
 - 5.11.1.1.3 report to Council on Chapter activities; and
 - 5.11.1.1.4 act in the best interest of Members of the Chapter.
- 5.11.1.2 Chapters may raise funds for use by them for their own specific operations, subject to the approval of the Board within the financial framework of the Chamber.
- 5.11.1.3 A Chapter Committee may make decisions about matters affecting Members of the Chapter within its geographical area. A decision may not conflict with this Constitution or with any prior decision and/or the overall policy of the Chamber.
- 5.11.1.4 Chapter Committees may appoint representatives to serve on other bodies dealing with matters affecting the Members in that geographical area.
- 5.11.1.5 Chapter Committees may co-opt Members of the Chapter to be committee members. Chapter Committees may also co-opt non-Members to serve in an advisory capacity. Non-Members have no voting rights on a Chapter Committee.

5.11.2 **Formation and Composition of Chapters**

- 5.11.2.1 The Board may permit the formation of Chapters to benefit Members in a particular geographical area, or with particular business interests.
- 5.11.2.2 The Board may only allow for the formation of a Chapter if it is satisfied that a reasonable need exists for the Chapter.
- 5.11.2.3 When allowing the formation of a Chapter it may impose terms and conditions as it sees fit.
- 5.11.2.4 Before a Chapter may be formed, the proposed Chapter shall have at least 50 Members or such lesser number of Members as the Board may determine.
- 5.11.2.5 The Board may form a Chapter committee for each Chapter.
- 5.11.2.6 The Board shall invite Members in writing by means of notifications, and at its office and at other venues as determined by the Board, to nominate persons to serve on Chapter Committees.
- 5.11.2.7 The Board shall approve and elect all Chapter Committee Members.

- 5.11.2.8 The President and the Chief Executive Officer are members of every Chapter Committee by office (*ex officio*) and may attend, speak at and vote at the meetings of the Chapter Committees.
- 5.11.2.9 The President may arrange a general meeting of Members in the geographical area of the Chapter for the election of Chapter Committees.
- 5.11.2.10 Members of Chapters are not relieved from their obligation to pay Subscriptions and other charges owing by them to the Chamber.
- 5.11.2.11 Each Chapter, regardless of the number of Members in that Chapter, is represented by at least one person on the Council.
- 5.11.2.12 Further, for every 50 additional Members from the date that the Chapter was constituted, the Chapter has one additional representative on the Council.
- 5.11.2.13 However, a Chapter has no more than three representatives on the Council.
- 5.11.2.14 If a Chapter nominates only one person to represent it on the Council, that person is deemed to be duly elected as a member of Council unless the Board objects to the nomination.
- 5.11.2.15 If a Chapter which may nominate a person to represent it on the Council fails to do so, the Board may appoint a suitable person as it deems fit to represent the Chapter on the Council.
- 5.11.2.16 If the Board wishes to object it shall give a written notice to the nominee and the Chapter.
- 5.11.2.16.1 The notice shall set out the reasons for the objections.
- 5.11.2.16.2 The Board shall give the nominee and the Chapter a chance to make representations and shall consider those representations.
- 5.11.2.16.3 The Board shall then, on reasonable grounds, determine the suitability of the person to serve as a member of Council.

5.11.3 **Eligibility & Term of Office of Chapter Committee Members**

- 5.11.3.1 The Board shall determine the election process and the quorum for meeting of Chapter Committees.
- 5.11.3.2 The Board shall determine the size of each Chapter Committee.

5.11.3.3 The term for Chapter Committee is one Chamber Term with no restriction on serving successive terms.

5.11.3.4 Only Members in good standing can serve on Chapter Committees.

5.12 Board Compliance Officer

5.12.1 Functions of Board Compliance Officer

5.12.1.1 The Board Compliance Officer reports to the Board;

5.12.1.2 The Board Compliance Officer shall attend all Board meetings;

5.12.1.3 The Board Compliance Officer is not considered a Board Member and has no voting rights; and

5.12.1.4 The Board Compliance Officer's duties include, but are not restricted to the following –

5.12.1.4.1 guiding the Board Members about their duties, responsibilities and powers;

5.12.1.4.2 making the Board aware of any law affecting the Chamber;

5.12.1.4.3 shall remain up to date on all new legislation and regulations which affects the Chamber and report to the Board any non-compliance thereof;

5.12.1.4.4 report to the Board any failure on the part of the Chamber or a Board Member to comply with the Constitution and the Chamber Code of Conduct;

5.12.1.4.5 ensure that minutes of all Members Meetings and Board Meetings, are accurately recorded;

5.12.1.4.6 provide the Board with adequate notice of upcoming duties and responsibilities to meet their constitutional obligations and ensure compliance with timelines;

5.12.1.4.7 in the absence of a Board Compliance Officer, the Chief Executive Officer shall perform this function; and

5.12.1.4.8 the Board Compliance Officer shall ensure that all Board Committees are holding meetings in accordance with the rules as set out in this constitution.

5.12.2 **Appointment of Board Compliance Officer**

5.12.2.1 The Board appoints and removes from office the Board Compliance Officer.

5.12.3 **Eligibility & Term of Office of Board Compliance Officer**

5.12.3.1 The term of the Board Compliance Officer is one Chamber Term.

5.12.3.2 There is no restriction on the number of consecutive Chamber Terms that the Board Compliance Officer can serve.

5.12.3.3 The Board determines the skills and qualifications criteria for the Board Compliance Officer.

5.12.3.4 To serve as the Board Compliance Officer a person shall be eligible to serve as a director as if the terms of the Companies Act, No. 71 of 2008 would apply.

5.12.3.5 A person who is ineligible or disqualified to be a Board Member under this Constitution may not consent to be appointed as a member of the Risk Management Committee.

5.12.3.6 While the Board Compliance Officer shall not be an employee of the Chamber, the Board may consider and agree a reasonable fee for the Officer to fulfil their duties.

5.13 **Chapter Secretariats**

Chapter Secretariats are responsible for the administration of their respective Chapters and duties include, but are not restricted to the following -

- 5.13.1 Schedule and coordinate all Chapter meetings;
- 5.13.2 Record Minutes of Chapter meetings;
- 5.13.3 Attend to all action points arising from meetings;
- 5.13.4 Coordinate and attend to the logistics of Chapter networking events;
- 5.13.5 Attend to committee member nominations;
- 5.13.6 Ensure all committee members sign the Chamber Code of Conduct; and
- 5.13.7 Identify and address needs of members in relevant areas.

6 POWERS OF THE ORGANISATION

6.1 Chamber

The Chamber exists as a collection of various offices and office bearers which have designated powers as described below.

6.2 Board

The Board generally and ultimately manages and controls the Chamber and its affairs.

- 6.2.1 The Board may exercise all such powers of the Chamber –
- 6.2.1.1 as are not under the Constitution required to be exercised by the Chamber in a Members Meeting;
 - 6.2.1.1 subject to regulations made by the Members in a Members Meeting; provided that no regulation may nullify any prior act of the Board which would have been valid if that regulation had not been made;
- 6.2.2 Without limiting the scope of 6.2.1, the Board –
- 6.2.2.1 may form and maintain any non-contributory or contributory pension, superannuation, provident and benefit funds for the benefit of;
 - 6.2.2.2 may make payments towards the insurance of pensions, gratuities and allowances of -
 - 6.2.2.2.1 any persons who are employees or ex-employees (including Board Members or ex-Board Members) of the Chamber, or of any company which is or was a subsidiary of the Chamber;
 - 6.2.2.2.2 any persons who are or were associated with the Chamber or any such subsidiary; and
 - 6.2.2.2.3 the husbands, wives, widowers, widows, families and dependants of those persons.
 - 6.2.2.3 shall regulate the general expenses of the Chamber and fix the remuneration of all employees, in consultation with the Chief Executive Officer;

- 6.2.2.4 may from time to time borrow, raise or secure money as it deems fit for any purpose which it may deem to be in the interests of the Chamber, but not so as to charge any;
- 6.2.2.5 shall determine the manner in which cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for monies paid to the Chamber, shall be signed, drawn, accepted, endorsed, or otherwise executed;
- 6.2.2.6 shall conduct and manage the business and operations of the Chamber;
- 6.2.2.7 may, by power of attorney, appoint any person, whether nominated directly or indirectly by the Board, to be the agent of the Chamber for such purposes, and with such powers, authorities and discretions and for such period, and subject to such terms, as it may deem fit. Those powers, authorities and discretions may not exceed those of the Board under the Constitution. That power of attorney –
- 6.2.2.7.1 may contain terms to protect persons dealing with the agent as the Board may deem fit; and
- 6.2.2.7.2 may authorise the agent to delegate all or any of those powers, authorities and discretions.
- 6.2.2.8 may delegate to any persons all such powers and the doing of all such acts as the Board may decide. Those persons have no power to sub-delegate;
- 6.2.2.9 may suspend or expel members, Council Members and Board Members subject to the rules set out within this constitution;
- 6.2.2.10 may permit the formation of Chapters to benefit Members in a particular geographical area, or with particular business interests if the Board is satisfied that a reasonable need exists for the Chapter. When allowing the formation of a Chapter, the Board may impose terms and conditions as it sees fit;
- 6.2.2.11 may form any number of Board Committees and delegate any powers and responsibilities as they deem fit;
- 6.2.2.12 may appoint, dismiss and manage the performance of the Chief Executive Officer in accordance with prevailing legislation.

6.3 Council

Other than the prescribed Council functions under this constitution, the Council has no additional powers or decision-making authority.

6.4 Exco

The Exco acts as representation for the entire Board and has no additional powers or decision-making authority other than those afforded to all Board members under this constitution. All decisions or actions taken by the Exco shall first receive approval from the Board.

6.5 Chief Executive Officer

6.5.1 The Board may delegate to the Chief Executive Officer any of the powers vested in the Board as the Board may deem fit and may from time-to-time revoke or change those powers.

6.5.2 The Board may delegate those powers for a period, and on the terms as the Board may deem fit.

6.6 Board Sub-Committees

The Board may delegate to the Board Committees any authority of the Board.

6.7 Audit and Risk Management Committees

Other than the prescribed functions under this constitution, the Audit and Risk Management Committees have no additional powers or decision-making authority.

6.8 Portfolio Committees

Other than the prescribed functions under this constitution, Portfolio Committees have no additional powers or decision-making authority.

6.9 President

The President acts as the spokesperson for the Board and does not have any additional powers or decision-making authority above those which are afforded to Board members, save for the following:

- 6.9.1 No person other than the President has the power to represent and speak on behalf of the Chamber in the public media, unless otherwise authorised by him or her;
- 6.9.2 The President is by office (*ex officio*) a member of all Committees duly formed except for the Vetting Committee;
- 6.9.3 The President has the second or casting vote in the event of a tie;
- 6.9.4 The President chairs all Board and Council meetings;
- 6.9.5 The President presides at all Members Meetings and all other meetings of the Chamber at which he or she is present;
- 6.9.6 The President has the authority usually vested in a chairman of a meeting including the authority to –
 - 6.9.6.1 keep order;
 - 6.9.6.2 direct the manner of debate upon all issues introduced; and
 - 6.9.6.3 has a second or casting vote if presiding.

6.10 Deputy President

The Deputy President does not have any additional powers or decision-making authority above those which are afforded to Board members, save that, in the absence of the President, the Deputy President acts for the President and is entitled to exercise all the rights, privileges and powers of the President.

6.11 Honorary Treasurer

The Honorary Treasurer does not have any additional powers or decision-making authority above those which are afforded to Board members.

6.12 Immediate Past President

The Immediate Past President does not have any additional powers or decision-making authority above those which are afforded to Board Members.

6.13 Past Presidents

Past Presidents, whether serving on Council or not, do not have any powers or decision-making authority.

6.14 Chapters

Other than the prescribed functions under this constitution, Chapters have no additional powers or decision-making authority.

7. CHAMBER MEETINGS

7.1. Board

- 7.1.1 The Board may authorise a Board Member, at any time, to call a Board meeting.
- 7.1.2 The Board shall call a Board meeting if at least two Board Members, in writing, ask it to do so.
- 7.1.3 The Board may determine what period of notice shall be given of Board meetings. The Board may determine the means of giving such notice, which may include phone, fax or electronic communication.
- 7.1.4 Notice of a Board meeting shall be given to all Board Members including those for the time being absent from South Africa.
- 7.1.5 A Board meeting may proceed on short notice, even if proper notice of that meeting was not given if the majority of Board Members agree to that meeting taking place.
- 7.1.6 The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to what is stated below.
- 7.1.7 The Board shall meet at least ten times a year.
- 7.1.8 The Board shall hold a meeting no more than 60 days before each AGM. That Board meeting is named the "Pre-AGM Board Meeting".
- 7.1.9 All Board meetings shall be held in Cape Town, unless the Board resolves otherwise.
- 7.1.10 A Board Meeting may be held by electronic communication and Board Members may participate in a Board Meeting by electronic communication so long as everyone participating in that meeting is able (i) to communicate concurrently with everyone else without an intermediary, and (ii) to participate effectively in the meeting.

- 7.1.11 The quorum for a Board meeting is at least one half of the Board Members in office.
- 7.1.12 When establishing the quorum, if the President, Deputy President or chairperson of the meeting is notified that any Board Member will be arriving later than the scheduled starting time for the Board Meeting, and that person eventually arrives before the Board Meeting is adjourned, that Board Member is deemed to be present at the time the quorum is established.
- 7.1.13 If a quorum is not present within 30 minutes after the scheduled starting time for the Board Meeting, that meeting proceeds. No decisions may be taken at that Board Meeting. That Board Meeting is then postponed to an alternative date. The postponed Board Meeting may only deal with the matters that were on the agenda on the original Board Meeting.
- 7.1.14 If at the postponed Board Meeting a quorum is not present within 30 minutes after the scheduled starting time for the Board Meeting, then the Board Members present are a quorum.
- 7.1.15 If the President or Deputy President is not present within 15 minutes after the scheduled starting time for the Board Meeting, the Board Members present may choose one of their number to be chairperson of that Board Meeting.
- 7.1.16 Each Board Member has one vote on a matter before the Board.
- 7.1.17 A majority of the votes cast on a resolution is sufficient to approve that resolution.
- 7.1.18 In the case of a tied vote the President has a deciding vote in addition to a deliberative vote, if he or she is absent then it applies to the Deputy President, or if both are absent it applies to the presiding chairperson.
- 7.1.19 All acts done by any Board Meeting, or by a Board Committee, or by any person acting as a Board Member is deemed to be valid as if every such person had been duly appointed and was qualified to be a Board Member, despite the fact that afterwards it is discovered that there was some defect in the appointment of the person so acting, or that he or she was disqualified.
- 7.1.20 The Chamber shall keep minutes of Board Meetings and Board Committee Meetings.
- 7.1.21 Resolutions of the Board shall be dated and sequentially numbered.
- 7.1.22 Resolutions of the Board are effective as of the date of the resolution, unless the resolution states otherwise.

- 7.1.23 The President, Deputy President or chairperson of a Board Meeting shall sign the minutes of a Board Meeting at the Board Meeting or at the next Board Meeting.
- 7.1.24 Any minutes of a Board Meeting, or a Board resolution signed by the President, Deputy President or chairperson of the Board Meeting, or by the President, Deputy President or chairperson at the next Board Meeting, is evidence of the proceedings of that Board Meeting or adoption of that resolution.
- 7.1.25 A written Board resolution signed by a majority of the Board Members in office has effect as if it had been passed at a Board Meeting duly called and constituted; provided that all Board Members in office have been given notice of the matter to be decided.

7.2 Council

- 7.2.1 The quorum for all Council meetings is 40 percent of the members of the Council.
- 7.2.2 All decisions of the Council are taken by simple majority of 50 percent plus one of the members of the Council present at a quorate meeting save for such decisions where a higher percentage is expressly called for under this Constitution.
- 7.2.3 Each Council Member has one vote on a matter before the Council.
- 7.2.4 The Council shall meet at least six times a year.
- 7.2.5 The Chamber shall convene a Special Council Meeting within 30 days if it receives a request to that effect signed by at least five percent of the Members stating the purpose for which the meeting is called.
- 7.2.6 The Chamber shall keep minutes of Council Meetings and a record of all decisions taken.
- 7.2.7 If both the President or Deputy President are not present within 15 minutes after the scheduled starting time for the Council Meeting, the Board Members present may choose one from their number to be chairperson of that Council Meeting.
- 7.2.8 In the case of a tied vote the President, Deputy President or chairperson has a deciding vote in addition to a deliberative vote.
- 7.2.9 The procedures for Council meetings are the same as those of Board meetings, with changes required by the context.

7.3 Exco

The Exco determines their own format and frequency of meetings.

7.4 Board Committees

Board Committees shall meet a minimum of four times per Chamber Term or until their purpose has been served.

7.5 Portfolio Committees

Portfolio Committees shall meet a minimum of four times per Chamber Term.

7.6 Chapter Committees

7.6.1 Chapters shall meet a minimum of five times per Chamber Term.

7.6.2 The Chamber shall convene a yearly general meeting (YGM) for Chapter Chairpersons and Vice Chairpersons in order for the Chapters to provide their annual reports.

8 MEMBERS MEETINGS

CAPE CHAMBER
OF COMMERCE & INDUSTRY

8.1 Annual General Meeting (AGM)

8.1.1 The Chamber shall convene an annual general meeting of Members ("**AGM**") once a year, within six months of the end of each Financial Year failing which, a SGM shall be held in the specified period where after an AGM shall be held no later than 90 business days after the SGM.

8.1.2 The following business shall at least be transacted at the AGM, namely –

8.1.2.1 the presentation of the annual report and audited financial statements for the immediately preceding Financial Year;

8.1.2.2 the appointment of an Auditor for the ensuing Financial Year;
and

8.1.2.3 any matters raised for discussion by Members, with or without advance notice to the Chamber.

8.1.3 The agenda of an AGM shall include –

- 8.1.3.1 a summary of the financial statements to be presented and directions for obtaining a copy of the complete annual financial statements for the preceding Financial Year;
- 8.1.3.2 a copy of any proposed resolution which is to be considered at the meeting;
- 8.1.3.3 a notice of the percentage of voting rights that will be required for that resolution to be adopted; and a statement that an Ordinary Member may appoint a proxy in writing as per **Schedule 1** to attend, participate in, speak at and vote at the meeting in the place of the Ordinary Member.

8.2 Special General Meeting (SGM)

- 8.2.1 Subject to this Constitution, special general meetings ("**SGMs**") of Members may be held as the Board may decide.
- 8.2.2 The Board shall call an SGM within 30 days if it receives a request to that effect signed by at least five percent of the Members stating the purpose for which the meeting is called.
- 8.2.3 The Chamber shall hold an SGM at any time that the Board shall under the Constitution refer a matter to Members for decision.

8.3 Notice of Members Meetings

- 8.3.1 The Chamber shall give notice of each Members Meeting, including the AGM and SGM, at least 14 days before the proposed Members Meeting. The notice shall include an agenda.
- 8.3.2 The Chamber may call an SGM with less notice in an emergency. That SGM may proceed only if every person who may vote on an item on the agenda of that SGM (i) has received proper notice of the SGM, or (ii) waives the required minimum notice.
- 8.3.3 If a material defect in the form or manner of giving notice of a Members Meeting relates only to one or more particular matter on the agenda for the Members Meeting-
 - 8.3.3.1 the matter may be severed from the agenda, and the notice remains valid for any remaining matters on the agenda; and
 - 8.3.3.2 the meeting may proceed to consider a severed matter, if the defective notice has been ratified.

- 8.3.4 An immaterial defect in the form or manner of delivering notice of a Members Meeting, or an accidental or inadvertent failure in the delivery of the notice to any particular Member to whom it was addressed does not invalidate any action taken at the Members Meeting.
- 8.3.5 Each proposed resolution shall be expressed with sufficient clarity and specificity and shall be accompanied by sufficient information and explanatory material to enable a voting Member to determine whether to participate in the Members Meeting, and to seek to influence the outcome of the vote on that resolution. If that resolution has been approved, it may not be challenged or disputed because it did not comply with the above.
- 8.3.6 A Member who is present at a Members Meeting, either in person or by proxy-
- 8.3.6.1 is deemed to have received or waived notice of the Members Meeting, if at least the required minimum notice was given;
 - 8.3.6.2 has a right to allege a material defect in the form of notice for a particular item on the agenda for the Members Meeting and to participate in the determination whether to waive the requirements for notice if less than the required minimum notice was given, or to ratify a defective notice; and
 - 8.3.6.3 is deemed to have waived any right based on an actual or alleged defect in the notice.
- 8.3.7 Where a given number of days' notice, or a notice extending over any other period shall be given, the day of service is counted in that number of days or other period.
- 8.3.8 The notice of a Members Meeting shall specify whether the mandate given to a proxy (i) may be general in nature, or (ii) shall be of a specific nature.
- 8.3.9 At any time before the start of an SGM –
- 8.3.9.1 the Members who submitted the demand for that SGM may withdraw that demand; and
 - 8.3.9.2 the Chamber shall cancel the SGM if, as a result of one or more demands being withdrawn, the remaining Members continuing to demand the meeting, in aggregate, fall below five percent of Members.

8.4 Members' Representatives & Proxies

- 8.4.1 A Member who is not a natural person may appoint a representative to attend any Members Meeting.

- 8.4.2 If a Member appoints more than one representative then those representatives have only one vote on behalf of the Member he or she represents.
- 8.4.3 An Ordinary Member may appoint a proxy to attend, participate in, speak at and vote at the meeting in the place of that Member at a Members Meeting.
- 8.4.4 A proxy need not be a Member.
- 8.4.5 A Member may not appoint more than one proxy to exercise voting rights.
- 8.4.6 A proxy may not delegate the authority granted to him or her.
- 8.4.7 A form appointing a proxy is valid for one year from date of signature, unless the form itself provides for a longer or shorter validity period.
- 8.4.8 A form appointing a proxy may be revoked at any time, unless the form itself states otherwise. The form may be revoked in writing, or by the making of a later inconsistent appointment of a proxy, and delivering a copy of the document to the proxy and to the Chamber.
- 8.4.9 A form appointing a proxy is suspended at any time and to the extent that the Ordinary Member chooses to act directly and in person in the exercise of any rights as an Ordinary Member.
- 8.4.10 The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a certified copy of the power or authority shall be delivered to the Chamber at least 48 hours before the Members Meeting.
- 8.4.11 A vote given under a form of proxy is valid despite the revocation of the form or of the authority under which the form was exercised; provided that no intimation in writing of the revocation has been received by the Chamber before the start of the Members Meeting or the adjourned Members Meeting at which the form is used.
- 8.4.12 If a proper form of proxy is received but it does not state how the proxy shall vote on any issue, the proxy may vote or abstain from voting as he or she deems fit unless the form states otherwise.
- 8.4.13 Each person at a Members Meeting may be required to give satisfactory identification in order to reasonably satisfy the person presiding at the Members Meeting that the person may participate in and vote at that Members Meeting.
- 8.4.14 A form of proxy shall be substantially in the format in **Schedule 1**.

8.5 Quorum

- 8.5.1 Unless stated otherwise, a quorum for Members Meeting is five percent of Members.
- 8.5.2 If within one hour from the time appointed for the meeting, a quorum is not present, the meeting –
- 8.5.2.1 if convened on requisition of Members, is dissolved; and
 - 8.5.2.2 in any other case, subject to clause **8.5.4**, is automatically postponed without motion to the same day in the following week at the same time and place.
- 8.5.3 The postponed meeting may only deal with matters that were on the agenda of the meeting that was postponed. A quorum for the postponed meeting is one Member.
- 8.5.4 The person presiding at a meeting that cannot begin because of clause **8.5.1**, may extend the starting time for one hour or for a reasonable period if –
- 8.5.4.1 exceptional circumstances affecting weather or transport have generally impeded or are generally impeding the ability of Members to be at the meeting on time; or
 - 8.5.4.2 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 quorum requirements.
- 8.5.5 The Chamber shall give notice to Members of the fact and date of an adjourned meeting.

8.6 Presiding Over Members Meetings

- 8.6.1 The President, failing that, the Deputy President presides at all Members Meetings. If neither of them are present within 15 minutes of the appointed time of the Members Meeting, then the remaining Board Members shall elect one from their number to chair the meeting.
- 8.6.2 The chairperson of the Members Meeting has a second or casting vote in addition to his or her own deliberative vote.

8.7 Voting at Members Meetings

- 8.7.1 A resolution put to the vote is decided on a show of hands, unless a secret ballot is requested by at least 10 percent of the Members at that meeting.

- 8.7.2 Each Ordinary Member and Honorary Member has one vote, with the exception of a second or casting vote in clause 8.6.2.
- 8.7.3 A declaration by the person presiding at the meeting that (in the case of a show of hands) a resolution has been carried unanimously, or by a particular majority, or lost, and an entry to that effect is entered into the minute book of the Chamber, is prima facie evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against the resolution.
- 8.7.4 In the case of a secret ballot, the person presiding shall be assisted by two Members present at the meeting and the above also applies.
- 8.7.5 No objection may be raised as to the admissibility of any vote except at the Members Meeting or adjourned Members Meeting at which the vote objected to is, or may be, given or tendered. Every vote not disallowed at that Members Meeting is valid for all purposes. Any such objection shall be referred to the person presiding at the Members Meeting, whose decision is final and binding.

8.8 **Conduct of Members**



- 8.8.1 All Board, Council and Committee Members shall annually sign the Chamber Code of Conduct and Chamber Ethics Policy as contemplated in the addendum and adhere to the principles contained therein;
- 8.8.2 Members shall apply professional conduct and behave in a fair, ethical, transparent and respectful manner at all times;
- 8.8.3 All Members are expected to disclose any conflict of interest or financial interest as detailed under the relevant sections of this constitution;
- 8.8.4 All Chamber meetings are strictly confidential;
- 8.8.5 All Members are expected to speak only when acknowledged by the Chair and to address the Chair in the appropriate manner;
- 8.8.6 Any Member that unnecessarily disrupts Chamber meetings will be removed from the meeting by the Chair;
- 8.8.7 Chamber employees and Members are expected to maintain an appropriate professional and neat dress code at all Chamber events and meetings;
- 8.8.8 A Members Meeting may be partly or exclusively conducted by electronic communication and Members may participate in a Members Meeting by electronic communication should appropriate technology be available as determined by the Board. The manner in which the meeting was held shall be recorded.

8.9 Matters to be voted on at Members Meetings

- 8.9.1 Every resolution of Members is either –
- 8.9.1.1 a resolution that shall be adopted by a majority of Members present at a Members Meeting ("**Ordinary Resolution**"); or
 - 8.9.1.2 a resolution that shall be adopted by 75 percent of Members present at a Members Meeting ("**Special Resolution**").
- 8.9.2 The Board may propose any resolution to be considered by the Members.
- 8.9.3 Any two Members may propose a resolution concerning any matter in respect of which they are each entitled to exercise voting rights and when proposing a resolution, may require that the resolution be submitted to Members for consideration –
- 8.9.3.1 at a Members Meeting;
 - 8.9.3.2 the proposed resolution shall be expressed with sufficient clarity and specificity and shall be accompanied by sufficient information and explanatory material to enable a voting Member to determine whether to participate in the Members Meeting, and to seek to influence the outcome of the vote on that resolution. If that resolution has been approved, it may not be challenged or disputed because it did not comply with the above.
- 8.9.4 An Ordinary Member Resolution is sufficient to approve a matter that shall be decided at a Members Meeting, and is required to approve and implement the following:
- 8.9.4.1 to approve the enrolment of new Honorary Members at the AGM;
 - 8.9.4.2 to approve the appointment of new Life Members at the AGM;
 - 8.9.4.3 the adjournment of a Members Meeting or a matter being debated at the Members Meeting;
 - 8.9.4.4 apart from the Board or Members, no other person may inspect any of the documents of the Chamber unless expressly authorised by the Board or by Ordinary Resolution;
 - 8.9.4.5 to approve the annual financial statements of the Chamber at the AGM;
 - 8.9.4.6 to appoint the auditors for the upcoming Chamber Term at the AGM.
- 8.9.5 A Special Member Resolution is required to approve and implement the following:

- 8.9.5.1 to change the Constitution;
- 8.9.5.2 to approve the voluntary winding up of the Chamber;
- 8.9.5.3 to authorise chamber being party to any fundamental transaction such as mergers and acquisitions;
- 8.9.5.4 to change the legal nature of the Chamber, or merger or amalgamation of the Chamber and any other entity;
- 8.9.5.5 any act that changes the core objects of the Chamber as per this constitution.

9 EXECUTIVE

9.1 Objective

The Executive is established for purposes of executing and administering the strategies, business plans and policies directed by the Board.

9.2 Organisation & Functions

The Executive shall consist of a CEO who will manage an agreed establishment of employees for serving the (i) financial, (ii) revenue generating, (iii) marketing, (iv) media representations, (v) events and (vi) membership administration and (vii) communications: functions & activities and the connected interests of the Chamber, that are directed to achieve the business purpose and its planned forecasts, as delegated by the Board.

9.3 Budgets

The Executive will plan, manage and administer all the Chamber's revenue generating activities and collections to achieve the Revenue Forecast Budget, and will manage the Overhead Cost Budget and related activities for achievement, as agreed by the Board.

9.4 Performance Management

At every Board meeting, the CEO will present an Executive progress report with to-date achievements and planned future activities to achieve business plans. Where necessary, the CEO will make recommendations and proposals for business improvements.

The Board will review the CEO's performance on a quarterly basis and against predefined objectives and achievement outcomes.

The CEO will conduct annual performance appraisals for Executive Managers and Staff.

9.5 **Remuneration Structure & Processes**

The cost of the Executive's Salaries represents the biggest Chamber expense and working capital requirement. Accordingly, this expense needs to be made productive and regularly measured for its contribution to the Chamber's value.

The CEO will appraise staff performance annually and make recommendations for salary adjustments to the Remuneration Committee who will evaluate market related salaries and make proposals to the Board for inclusion in annual budgeting costs. These are then passed on to the Finance Committee for inclusion in their budgeting process before presentation to the Board for final Budget approval.

9.6 **Policies & Procedures**

The Executive will maintain auditable and Board approved Policies & Procedures for all the Chamber's needs and will update these after Board decisions and resolutions on Policies are made from time to time.

The CEO will determine, write and propose to the Board, the Procedures appropriate for transacting all Board Policy decisions that are made at Board meetings and will present these Procedures as part of the CEO Board report as required by the Board.

10 FINANCE

10.1. **Financial Year**

The financial year ("**Financial Year**") of the Chamber starts on the first day of July and ends on last day of June in the next year.

10.2. Accounting Records & Financial Statements

- 10.2.1 The Board shall keep accounting records that fairly present the state of affairs and business of the Chamber and that explain the transactions and financial position of its business.
- 10.2.2 The accounting records shall be accessible at the Chamber's main office or at such other place as the Board may deem fit.
- 10.2.3 The Chamber shall prepare its financial statements in accordance with the International Financial Reporting Standards or, if it qualifies, in accordance with the International Financial Reporting Standards for Small and Medium Enterprises, as adopted by the International Accounting Standards Board or its successor body.
- 10.2.4 The Chamber shall have its annual financial statements audited by a duly appointed independent external auditor.
- 10.2.5 Members may subject to applicable laws, including the Promotion of Access to Information Act, No 2 of 2000, inspect and take copies of the Constitution, changes to the Constitution, records in respect of Board Members, accounting records required to be maintained by the Chamber, reports to AGMs, annual financial statements, notices and minutes of meetings, communications generally to Members and the Members Register.
- 10.2.6 The Board determines at what times and places (save in the case of accounting records, which shall be accessible at the main office of the Chamber) and on what terms, the documents which Members may inspect and take copies of are open to inspection by Members.
- 10.2.7 Apart from the Board or Members, no other person may inspect any of the documents of the Chamber unless expressly authorised by the Board or by Ordinary Resolution.
- 10.2.8 The Chamber shall notify the Members of the publication of any annual financial statements of the Chamber, setting out the steps required to obtain a copy of those annual financial statements. If a Member asks for a copy of the statements, the Chamber shall make the statements available to the Member at the cost determined by the Board or Exco may decide from time to time.

10.3. Appointment of Auditor

- 10.3.1 Ordinary Members appoint and remove the Auditor at the AGM.

- 10.3.2 If an AGM does not appoint or re-appoint an Auditor, the Board shall fill the vacancy within 40 days of the AGM.
- 10.3.3 If a vacancy arises in the office of Auditor, the Board shall appoint a new Auditor within 40 days.
- 10.3.4 If the Auditor is removed from office, the Auditor may, by giving written notice to that effect to the Chamber by not later than the end of the Financial Year in which the removal took place, require the Chamber to include a statement in its annual financial statements relating to that Financial Year, not exceeding a reasonable length, setting out the Auditor's contention as to the circumstances that resulted in the removal. The Chamber shall include this statement in the Board report in its annual financial statements.

10.4. Tax Provisions

- 10.4.1 The Chamber will continue to seek exemption from income tax in terms of the relevant provisions of the Income Tax Act, No 58 of 1962 and such other tax exemptions as the Commissioner for the South African Revenue Service may allow.
- 10.4.2 To qualify for tax exemption the Chamber shall at all times comply with this clause 10.4, despite any term to the contrary in this Constitution.
- 10.4.3 No single person may directly or indirectly control the decision-making powers of the Chamber.
- 10.4.4 The Chamber may not directly or indirectly distribute any of its funds or assets to any person other than in the course of furthering its Objects.
- 10.4.5 The Chamber shall use substantially the whole of its funds for the Objects.
- 10.4.6 No Member may directly or indirectly have any personal or private interest in the Chamber.
- 10.4.7 Substantially the whole of the activities of the Chamber shall be directed to the furtherance of its Objects and not for the specific benefit of an individual member or minority group.
- 10.4.8 The Chamber may not have a share or other interest in any business, profession or occupation which is carried on by its Members.
- 10.4.9 The Chamber may not pay to any employee, office bearer, member or other person any remuneration, as defined in the Fourth Schedule to the ITA, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.

- 10.4.10 The Chamber may implement income generating activities as determined by the Board from time to time, over and above subscription and certification income under the proviso that the Chamber's tax exemption status is retained.
- 10.4.11 The Board shall submit any amendment of the Constitution to the Commissioner within 30 days of its amendment.
- 10.4.12 The Chamber shall comply with such reporting requirements as may be determined by the Commissioner from time to time.
- 10.4.13 The Chamber may not knowingly become a party to, and may not knowingly permit itself to be used as part of an impermissible avoidance arrangement contemplated in Part IIA of Chapter III of the ITA, or a transaction, operation or scheme contemplated in s 103(5) of the ITA.

11 DISPUTE RESOLUTION

11.1 Objective

If any dispute arises between any persons bound by this Constitution, including any dispute or difference arising from –

- 11.1.1 any of the terms of this Constitution; including, without limitation, its interpretation, enforcement or non-enforcement and consequences of enforcement or non-enforcement for the disputing parties and the Chamber;
- 11.1.2 any relationship between any two or more Members in whatever capacity;
- 11.1.3 any relationship between any Member and the Chamber;
- 11.1.4 any right or obligation of any Member in whatever capacity, against, or to the Chamber or any other Member;

that dispute may, depending on its nature, potentially adverse consequences for the Chamber and need for confidentiality, be referred by the disputing parties or the Board, as provided below, to any of the following resolution processes:

- I. firstly, **Mediation**, either facilitated by an internally or externally appointed mediator, or, failing mediation;
- II. secondly, **Informal Arbitration**, that is arbitration conducted by an independent referee, acting as an expert, or, failing that;
- III. thirdly, **Formal Arbitration**, that is arbitration conducted by an independent and practising arbitrator, acting as such under and in accordance with the rules for formal arbitration as directed by the Legal Practice Council;

IV. as an alternative and when circumstances, in the opinion of the Board so demand, an **Internal Vote of No Confidence procedure**,

and except to the extent that provision is made elsewhere in this Constitution for the final resolution of that dispute and the dispute is not, in the opinion of any of the disputing parties or the Board, finally resolved pursuant to such other mechanisms, on written demand by any such person be submitted to arbitration in accordance with the rules of the Legal Practice Council.

11.2 Mediation

11.2.1 The Mediator shall be appointed by agreement between the parties to the dispute, or, failing agreement within 10 working days, by the Board, either a person from within the Chamber's ranks or an outside professional, depending on nature/complexity/consequences – in board's discretion.

11.2.2 If no resolution, the matter goes to Informal Arbitration – 11.3

11.3 Informal Arbitration



11.3.1 Notwithstanding the reference in this clause 11.3 to an "arbitrator", any such informal arbitrator shall act as a referee and/or expert and not as an arbitrator and shall not, therefore, be bound by the provisions of any Arbitration laws for the time being in force, including, without limitation, the strict requirements of process, evidence and written submissions.

11.3.2 In the case of an external arbitrator, such arbitrator shall be agreed upon between the parties to the dispute, and, failing agreement within 7 business days, appointed on the application of either party, by the Provincial Chairperson of the Legal Practice Council.

11.3.4 The arbitrator shall be entitled to consult such persons as he may deem necessary to reach a just and equitable conclusion and the parties to the dispute shall have no right to be present during such consultation or to be made aware thereof. The arbitrator shall be entitled to investigate or cause to be investigated any matter, fact or thing which he considers necessary or desirable in connection with any matter referred to him for decision, and for that purpose shall have the widest possible powers of investigating all the books and records of the parties affected by the dispute, including the right to the fullest inspection of the same by him or by his duly authorised representative(s) and the right to make copies

thereof or take extracts therefrom and to have the same produced and/or delivered to any reasonable place required by him for the aforesaid purpose and shall have the right to interview and question under oath any affected party or their directors or officers or employees or agents and/or to call for written submissions by any affected party and/or their directors or officers or employees or agents.

- 11.3.5 The arbitrator shall not be bound to follow strict principles of law, but may decide the matters submitted to him according to what he considers just and equitable in the circumstances, and, therefore, the strict rules of law need not be observed or be taken into account by him in arriving at his decision.
- 11.3.6 The arbitrator shall be entitled to make such award, including an award for damages or to grant such interdict, damages or penalty or penalties or otherwise as he in his discretion may deem fit and appropriate.
- 11.3.7 Should the arbitration fail for any reason, including that any of or all the parties to the dispute does/do not accept the arbitrator's decision, the dispute shall be referred to formal arbitration as contemplated in 11.5.

11.4 **Vote of No Confidence**



CAPE PLUMBED

The outcome of the vote should lead the board to decide whether to remove the Member with immediate effect, implement other sanctions, or to retain the Member and implement monitoring or mentoring conditions.

11.5 **Arbitration**

- 11.5.1 The arbitration shall be held in Cape Town, in English.
- 11.5.2 Any arbitrator deemed acceptable by the disputing parties, shall administer the arbitration.
- 11.5.4 If the parties to the dispute fail to agree on a matter relating to the administration of the arbitration, the matter shall be referred to, and decided by the arbitrator whose decision is final and binds those parties.
- 11.5.5 An arbitration under this clause shall be held in secret (*in camera*). The parties shall keep confidential (i) the details of the dispute submitted to arbitration, and (ii) the conduct and result of the arbitration.
- 11.5.6 Despite this clause, a party may apply to court for urgent relief, or for judgment for a liquidated claim.

- 11.5.7 This clause is binding on the relevant persons despite the termination of this Constitution for any reason, the winding-up or dissolution of the Chamber, or the cessation of Membership or Board Membership.
- 11.5.8 A written demand by a party for a dispute to be submitted to arbitration is deemed to be a legal process for the purpose of interrupting extinctive prescription under the Prescription Act, No 68 of 1969.

12 GENERAL

12.1 Remuneration of Office Holders & Official Chamber Positions

Save for the Chief Executive Officer and any other employee who is employed by the Chamber on a full-time basis, the Chamber may not remunerate Board Members or Council Members, except for fair compensation for services rendered which have been submitted to the Board for prior approval.

12.2 Personal Financial Interests

- 12.2.1 Board, Council Members and committee members shall disclose in writing to the Board, any personal financial interest in Chamber activities and/or intention to provide products or services to the Chamber. Written submissions setting out the nature and extent of that interest and/or financial remuneration shall be approved by the Board in alignment with the Chamber's procurement policy.
- 12.2.2 If a Board, Council or Committee Member has a personal financial interest about a matter to be considered at a Meeting, or knows that person related to the Member has such an interest in the matter, the Member –
- 12.2.3 shall disclose details of that interest, known to the Member, before the matter is considered at the Meeting;
- 12.2.4 may disclose any observations or pertinent insights about the matter if asked to do so by the Board Members;
- 12.2.5 if present at the meeting, shall leave the Meeting immediately after making the disclosure;
- 12.2.6 may not take part in the consideration of the matter, except to make the disclosure;
- 12.2.7 while absent from the meeting, is deemed to be –
- 12.2.8 present at the Meeting to determine whether there is a quorum or not; and

- 12.2.9 absent from the meeting to determine whether a resolution has sufficient support to be adopted; and
- 12.2.10 may not sign any document for the Chamber about the matter unless the Board specifically directs him or her to do so.
- 12.2.11 If a Board, Council or Committee Member acquires a personal financial interest in an agreement or other matter in which the Chamber has a material interest, or knows that a person related to the Member has acquired such an interest, after the agreement or other matter has been approved by the Chamber, the Member shall promptly disclose to the Board the nature and extent of that interest, and the details about the Member or related person's acquisition of that interest.
- 12.2.12 A decision of the Board, or a transaction or agreement approved by the Board is valid despite any personal financial interest of a Member or person related to the Board, Council or Committee only if –
- 12.2.13 it was approved following the disclosure of the personal financial interest in the way set out above; or
- 12.2.14 despite having been approved without disclosure of that interest, it has been ratified by an Ordinary Resolution following the disclosure of the interest.
- 12.2.15 A Member may not use the position of Board, Council or Committee, or any information obtained while a Member of such –
- 12.2.16 to gain an advantage for the Member, or for another person other than the Chamber or a wholly-owned subsidiary of the Chamber; or
- 12.2.17 to knowingly cause harm to the Chamber or a subsidiary of the Chamber.
- 12.2.18 A Board, Council or Committee Member shall inform the Board as soon as possible of any information that comes to the Member's attention, unless (i) the Member reasonably believes that the information is immaterial to the Chamber or is generally available to the public, or known to the other Members, or (ii) he or she may not disclose that information under a legal or ethical obligation of confidentiality.
- 12.2.19 A Board, Council or Committee Member Member, when acting in that capacity, shall exercise the powers, and perform the functions of a Board, Council or Committee Member–
- 12.2.20 in good faith and for a proper purpose;
- 12.2.21 in the best interests of the Chamber; and
- 12.2.22 with the degree of care, skill and diligence that may reasonably be expected of a person carrying out the same functions in relation to the Chamber as those carried out by that Board, Council or Committee Member and having the general knowledge, skill and experience of that Board, Council or Committee Member.

- 12.2.23 In respect of any particular matter arising in the exercise of the powers, or the performance of the functions of a Board Member, a particular Board Member –
- 12.2.24 will have met the obligations in if her or she –
- 12.2.24.1 has taken reasonably diligent steps to become informed about the matter;
- 12.2.24.2 had no material personal financial interest in the subject matter of the decision, and had no reasonable basis to know that any related person had a personal financial interest in the matter; or
- 12.2.24.3 made a decision, or supported the decision of a Board Committee or the Board, with regard to that matter, and had a rational basis for believing, and did believe that the decision was in the best interests of the Chamber;
- 12.2.24.4 may rely on the information, opinions, reports and statements provided by employees of the Chamber, delegates of the Chamber and other professional persons retained by the Chamber;
- 12.2.25 may rely on –
- 12.2.25.1 lawyers, accountants, or other professional persons retained by the Chamber, the Board or a Board Committee as to matters involving skills or expertise that the Board Member reasonably believes are matters within the particular person's professional or expert competence or as to which the particular person merits confidence; or
- 12.2.25.2 the particular expertise of a Board Committee of which he or she is not a member, unless the Board Member has reason to believe that the actions of the Board Committee do not merit confidence.

12.3 Conflict of Interest

- 12.3.1 All Board, Council and Committee Members are responsible to fully disclose their interest that may have a bearing on an issue under discussion, or perceived to have a bearing on their ability to properly and impartially discharge their duties and or be perceived to be impartial in their dealings with a matter on behalf of the chamber. Members and or the secretariat shall declare such interest immediately, and recuse themselves from further discussion or dealings with "the" matter.

- 12.3.1 All Board, Council and Committee Members shall disclose in writing to the Board, any conflict of interest or potential financial gain, and obtain Board approval prior to engaging in any such activities.

12.4 Confidentiality

- 12.4.1 All Board, Council and committee meetings are strictly confidential and disclosing any information to external parties, the media, or other members who are not part of those Chamber committees is not permitted, other than by the Chamber's official spokespersons as they deem appropriate in the Chamber's interest.
- 12.4.2 Confidential information includes all content, documents, recordings and minutes of meetings, and any form of electronic communication.
- 12.4.3 The Chamber's official spokespersons and representatives at meetings outside the Chamber is the President and/or his or her nominee, appointed to act on the Chamber's behalf. All Chamber representatives should reflect Chamber policy in matters under discussion at meetings they attend on the Chamber's behalf.
- 12.4.4 Contact with the public media is confined to the President and to those persons who are specifically authorized as official spokespersons of the Chamber for the specific purpose concerned.

12.5 Indemnity

- 12.5.1 Subject to the provisions of any relevant law, Members, Board Members, office-bearers and appointed delegates of the Chamber are indemnified by the Chamber for all acts done by them in good faith and for a proper purpose in the best interest of the company with the degree of care, skill and diligence that may reasonably be expected of a person carrying out the same functions and having the general knowledge, skill and experience of that particular Board Member on its behalf.
- 12.5.2 Subject to the provisions of any relevant law, no Member, Board Member, office-bearer or appointed delegate is liable for –
- 12.5.2.1 the acts, receipts, neglects or defaults of any other Member, Board Member, office-bearer or appointed delegate; or
- 12.5.2.2 for any loss, damage or expense suffered by the Chamber, which occurs in the execution of the duties of his or her office, unless it arises as a result of his or her dishonesty.

12.6 Indemnity and Insurance for Board Members

- 12.6.1 In this clause "Board Member" includes a former Board Member and a member of a Board Committee, whether or not the person is also a Board Member.
- 12.6.2 The Chamber may not, directly or indirectly, pay any fine imposed on a Board Member, arising from that Board Member having been convicted of an offence under national legislation.
- 12.6.3 The Chamber may –
- 12.6.3.1 advance expenses to a Board member to defend litigation in any proceedings arising from the Board member's service to the Chamber; and
- 12.6.3.2 directly or indirectly indemnify a Board Member against –
- 12.6.3.2.1 any liability, other than (i) any liability arising from wilful misconduct or wilful breach of trust, or (ii) a fine; and
- 12.6.3.2.2 any expenses to defend litigation in any proceedings arising from the Board member's service to the Chamber, whether or not it has advanced those expenses, if (i) the proceedings are abandoned or clear the Board Member or (ii) the expenses are for any other liability for which the Chamber may indemnify the Board Member.
- 12.6.4 The Chamber may get insurance to protect –
- 12.6.4.1 a Board Member against any liability or expenses to defend litigation in any proceedings arising from the Board member's service to the Chamber;
- 12.6.4.2 the Chamber against any contingency, including any expenses above that the Chamber may advance, or for which the Chamber is permitted to indemnify a Board Member, or any liability for which the Chamber is permitted to indemnify a Board Member.
- 12.6.5 The Chamber may indemnify each Board Member against (and pay to each Board member, on demand by that Board Member, the amount of) any loss, liability, damage, costs (including all legal costs reasonably incurred by the Board Member in dealing with or defending any claim) (together "**Loss**") which that Board Member may suffer due to any act or omission of that Board Member in his or her capacity as a Board member.

- 12.6.6 The Chamber may not indemnify a Board Member against any Loss –
- 12.6.6.1 arising from fraud, wilful misconduct, gross negligence or recklessness on the part of that Board Member;
 - 12.6.6.2 relating to a Board Member's reputation; or
 - 12.6.6.3 if and to the extent that the Board Member has recovered or is entitled and able to recover the amount of that Loss under any insurance policy (whether taken out or paid by the Chamber or otherwise).
- 12.6.7 Board Members may recover Losses from the Chamber.
- 12.6.8 All Losses other than those referred to in this clause 13.3.6 are called "**Indemnified Losses**".
- 12.6.9 Each Board Member's right to be indemnified by the Chamber under this indemnity (ii) starts automatically when he or she becomes a Board Member and (ii) endures even after he or she stops being a Board Member until he or she can no longer incur any Indemnified Loss.
- 12.6.10 If any claim is made against a Board Member for an Indemnified Loss, the Board Member may not admit any liability for the Loss. The Board Member shall notify the Chamber of the claim within a reasonable time after the Board member becomes aware of the claim so that the Chamber is able to contest the claim. Despite the above, the Chamber's liability under this indemnity is not affected by any failure of the Board Member to comply with this clause 13.3.10 save if, and to the extent that the Chamber proves that the failure has resulted in the Indemnified Loss being greater than it would have been had the Board Member complied.
- 12.6.11 The Chamber may, at its cost and with the assistance of its own legal advisers, (i) contest the claim in the name of the Board Member until finally determined by the highest court to which appeal may be made (or which may review any decision or judgment made or given about the claim) or settle the claim, and (ii) may control the proceedings relating to the claim; provided that –
- 12.6.11.1 the Board Member shall, at the cost of the Chamber and, if the Board member so requires, with the involvement of his or her own legal advisers, assist the Chamber in the manner in which the Chamber may reasonably require of the Board Member to contest the claim;
 - 12.6.11.2 the Chamber shall regularly, and in any event when the Board Member asks the Chamber to do so, inform the Board Member fully of the status of the contested claim and give the Board Member all documents and information about the claim which the Board Member may reasonably ask for;

12.6.11.3 the Chamber shall consult with the Board Member before –

12.6.11.3.1 taking any major steps in relation to, or settling a contested claim; and

12.6.11.3.2 before making, or agreeing to any announcement or other publicity about the claim.

12.6.11.4 to the extent that any Loss consists of or arises from a claim or potential claim that the Chamber might otherwise have had against the Board Member, then the effect of this indemnity is to prevent the Chamber from making that claim against the Board Member, who is immune to that claim.

12.6.12 If this clause 13.3 is changed, the change does not detract from the right of the Board Member under this clause for any period before the date on which the resolution for the change is adopted.

12.6.13 This indemnity does not detract from any separate indemnity that the Chamber may give in favour of the Board Member.

12.7 Minutes & Minute Book

12.7.1 The Board shall keep minutes of –

12.7.1.1 the appointments of Board Members and members of Board Committees;

12.7.1.2 names of Members present at every Members Meeting;

12.7.1.3 the names of Board Members present at every Board Meeting; and

12.7.1.4 all proceedings at all Board meetings and Members Meetings.

12.7.2 The minutes shall be signed by the person presiding at the meeting at which the proceedings took place, or by the person presiding at the next meeting.

12.8 Notices

12.8.1 All notices to be given under this Constitution may be delivered to the relevant person by hand, by post, by email, by electronic communication or registered post in a prepaid letter addressed to the person at his or her recorded address or failing that, his or her last known address.

- 12.8.2 Any person who has given an email address to the Chamber, by doing so authorises the Chamber to use email to give notices, information and documents to him or her.
- 12.8.3 All notices to be given under this Constitution –
- 12.8.3.1 if delivered by hand during business hours, are deemed to have been received on the date of delivery;
 - 12.8.3.2 if delivered by hand after business hours or on a day which is not a business day, are deemed to have been received on the following business day;
 - 12.8.3.3 if sent by electronic communication during business hours, are deemed to have been received on the date of successful sending of the electronic communication;
 - 12.8.3.4 if sent by electronic communication after business hours or on a day which is not a business day, are deemed to have been received on the following business day; and
 - 12.8.3.5 if sent by registered post, are deemed to have been received on the seventh day after the date of posting.
 - 12.8.3.6 Despite the above, any notice given in writing, and actually received by the person to whom it is addressed is deemed to have been properly given and received.

12.9 **The Constitution**

- 12.9.1 The Board may correct self-evident errors in this Constitution, including spelling, punctuation, reference, grammar or similar defects.
- 12.9.2 Save for the above clause, this Constitution may only be changed by a Special Resolution; provided that the meeting is attended by at least 5 percent of the Members, and that 14 days' written notice of the proposed change has been given to Members.
- 12.9.3 This Constitution replaces all previous constitutional documents of the Chamber, excluding for certainty the Cape Town Chamber of Commerce Act, 1891.
- 12.9.4 All terms of this Constitution are severable from each other, despite the way in which they have been grouped together or linked grammatically.
- 12.9.5 If a term of this Constitution is, or becomes unenforceable for any reason then (i) that term, only to the extent that it is unenforceable, is treated as if it has not been written, and (ii) the rest of the terms continue to operate.

13 DISSOLUTION

Despite any law or agreement to the contrary, on the winding-up or dissolution of the Chamber-

- 13.1 The Chamber shall as part of its dissolution transfer its assets to –
 - 13.1.1 another entity approved by the Commissioner in terms of section 30B of the Income Tax Act, 58 of 1962; that failing
 - 13.1.2 a public benefit organisation approved in terms of section 30 of the Income Tax Act, 58 of 1962; that failing
 - 13.1.3 an institution, board or body which is exempt from tax under section 10(1)(cA)(i) of the Income Tax Act, 58 of 1962; or
 - 13.1.4 the government of South Africa.
- 13.2 no past or present Member, Board Member or person is entitled to any part of the net value of the Chamber after its liabilities have been settled.



ADDENDUM 1 – PROXY FORM

Schedule 1

FORM OF PROXY

I/we _____

being a member of the Cape Chamber of Commerce and Industry appoint

_____ or failing him or her

_____ or failing him or her

the chairperson of the meeting

as my/our proxy to vote or abstain from voting on my/our behalf at the Members Meeting to

be held at _____ on _____ and at any

adjournment of that meeting as follows:

	In favour of	Against	Abstain
Special Resolution 1
Ordinary Resolution 1

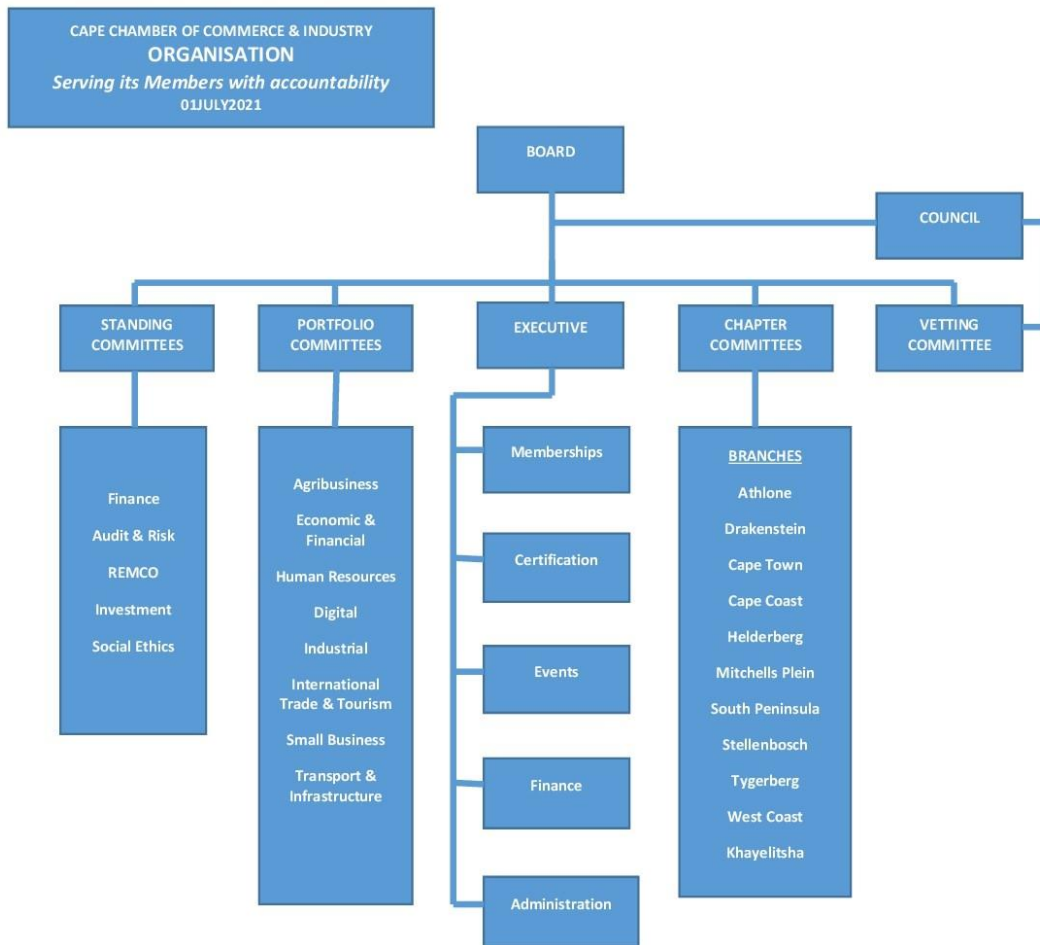
(Indicate instruction to proxy by way of a cross in space provided above.)

Except as instructed above or if no instructions are inserted above, my/our proxy may vote as he or she thinks fit.

SIGNED at _____ on _____

MEMBER'S SIGNATURE

ADDENDUM 2 – CHAMBER ORGANOGRAM



ADDENDUM 3 - CHAMBER CODE OF CONDUCT

All Chamber employees and members of all Chamber committees including but not limited to Council, Board, Chapter Committees, Portfolio Committees and sub committees have joint and several responsibilities to ensure the present and future success of the Chamber and are therefore bound by the signing of the Chamber Code of Conduct and in doing so are similarly bound by the Chamber Constitution. The following principles are therefore intended to serve as guidelines to the way in which the 'Chamber' expects employees and all members of these Chamber structures to act to best serve and uphold the traditions of the Chamber:

1. Treat all Board, Council and committee meetings as strictly confidential. Disclosing any information to external parties, the media, or any other members who are not part of those Chamber committees is not permitted, other than by the Chamber's official spokespersons as they deem appropriate in the Chamber's interest.
2. Have a fiduciary care duty to the best interests of the Chamber, and to refrain from any action which may negatively impact the reputation and image of the Chamber.
3. The Chamber's official spokespersons and representatives at meetings outside the Chamber is the President and/or his or her nominee, appointed to act on the Chamber's behalf. All Chamber representatives should act in accordance with Chamber policy in matters under discussion at meetings they attend on the Chamber's behalf.
4. Contact with the public media is confined to the President and to those persons who are specifically authorized as official spokespersons of the Chamber for the specific purpose concerned.
5. Decisions taken by the majority of members ordinarily present at Chamber meetings shall be the view of the Chamber from the date of adoption, and all employees and members are required to respect and adhere to such decisions.
6. All Members are expected to be open and fair in their dealings with fellow members and employees within the Chamber, to respect their democratic rights, refraining from exercising undue pressure on them for any reason. All will show the necessary respect, collegiality and civility towards each other.
7. All Members shall adhere to the necessary meeting house rules, formalities and decorum as reflected in the Chamber constitution.
8. All Board and Council Members shall disclose in writing to the Board, any conflict of interest or potential financial gain that arises or may arise from any activities or business opportunities the Chamber engages or may engage in, and obtain Board approval prior to engaging in any such activities or business opportunities.
9. Invitations to persons to speak at, or attend, Chamber meetings and/or functions are to be extended in the name of the Chamber by the President, or by a person the President may nominate.
10. Proposals for projects made by members to Committees or the Council which are adopted, become Chamber initiatives to be executed by persons as directed by the Board.
11. Board, Council, Chapter and Committee members should attend at least 75% of their respective meetings or tender their apologies.

12. It is the responsibility of the CEO to ensure that matters entrusted to Chamber employees or committee members are dealt with effectively and that Members should not interfere with the work of individual members or employees. Members having any difficulty with the way in which the Chamber employees and/or committee members perform their functions, should raise their concerns with the CEO. In the event of any further dissatisfaction, the members should raise the issue with the President.
13. Members of Board, Council, Chapter and other Committees are not permitted to hold any remunerated position within in any registered political party.
14. All members hosting or speaking at Chamber events are to do so in their capacity as Chamber representatives. Although their credentials as an individual are expected to be shared with the audience and can be leveraged to gain clients, the specific platform afforded them in their role is not to be used for overt personal, service or product promotion.

NAME: _____

COMPANY: _____

SIGNED: _____

DATE: _____



CAPE CHAMBER
OF COMMERCE & INDUSTRY

ADDENDUM 4 - CHAMBER ETHICS POLICY



Ethics policy

PREAMBLE

As the apex business organisation in the Western Cape, Cape Chamber and all who represent it – Directors, employees, members, suppliers and other Office Bearers nominated by the Chamber – are required to conduct themselves ethically and legally at all times, in the best interests of the Chamber and to avoid any course of action that may reflect negatively on the Chamber or place the representative in a situation where a conflict of interest might arise.

Purpose

Our professional code of ethics policy aims to give our employees and member guidelines on our business ethics and stance on various controversial matters. We trust you to use your better judgment, but we want to provide you with a concrete guide you can fall back on if you're unsure about how you should act (e.g. in cases of conflict of interest). We will also use this policy to outline the consequences of violating our business code of ethics.

PO Box 204, Cape Town, 8000
Currently working via virtual offices
www.capechamber.co.za / info@capechamber.co.za

Tel. +27 21 402 4300
Fax: +27 21 402 4302
Executive Director: Sid Peimer

Founded in 1804 and incorporated by an Act of Parliament - Act 21 of 1891

Scope

This policy applies to everyone we employ or with whom we have business relations. This includes individual people such as employees, interns, volunteers, but also business entities, such as vendors, enterprise customers or venture capital companies.

Note that our code of ethics is slightly different to our code of conduct. The code of conduct will include elements such as dress code and social media use, while our code of professional ethics refers to legally or morally charged issues. Still, these two codes do overlap.

Policy elements

What is meant by code of professional ethics?

First, let us define professional ethics: they are a set of principles that guide the behaviour of people in a business context. They are essential to maintaining the legality of business and a healthy workplace.

So, what is a *code* of ethics? Our code of ethics definition refers to the standards that apply to a specific setting – in this case, our own organisation.

The components of our code of professional ethics:

We base our business code of ethics on common principles of ethics:

- **Respect for others.** Treat people as you want to be treated.
- **Integrity and honesty.** Tell the truth and avoid any wrongdoing to the best of your ability.
- **Justice.** Make sure you are objective and fair and don't disadvantage others.

1

- **Lawfulness.** Know and follow the law – always.
- **Competence and accountability.** Work hard and be responsible for your work.
- **Teamwork.** Collaborate and ask for help.

ETHICAL STANDARDS

No Chamber representative may, directly or indirectly, seek or do remunerated business, or secure a financial interest or benefit for themselves or related persons or businesses as a result of representing the Chamber, unless this is disclosed and duly approved by the Board.

Chamber representatives may not directly or indirectly be unfairly advantaged due to their association with the Chamber.

Chamber representatives are required to conduct themselves ethically and lawfully in a manner that upholds fundamental principles of human rights and protects the dignity and independence of the Chamber.

Chamber representatives are expected:

1. To treat other representatives and Chamber stakeholders with dignity and respect.
2. To act in a manner that is compatible with respect for human rights, and not engage in any racial, sexual or other forms of harassment or abuse.
3. To comply with the laws of the Republic of South Africa.
4. To conduct themselves ethically and not engage in illegal acts, indirect contributions, rebates or bribery.

5. To declare and obtain permission prior to receipt, or refuse any preferential treatment, entertainment, gifts or personal favours that could in any way influence or appear to influence Chamber decisions.
6. To declare any matters that may be of interest to the Chamber and its reputation.
7. When utilising Chamber resources or incurring any reimbursable personal expenses, to ensure that the funds are used for the intended purposes and not for personal benefit
8. Chamber representatives are expected to keep accurate and reliable records of expenses and submit them timeously
9. Chamber representatives must honestly record and communicate on expenses, attendance or absence and any related issues.
10. To carry out representative functions in the best interests of the Chamber and not create a conflict of interest between the representatives' personal or business interests and the interests of the Chamber
11. To act with integrity and avoid investing in, or acquiring a financial interest for their own or their business's account, with any organisation that provides services to Chamber without receiving prior written permission from the Chamber's board.
12. To behave professionally and not engage in conduct that would bring the Chamber into disrepute or compromise the Chamber in any manner.
13. To report to Chamber any concerns relating to actual or potential fraud, misrepresentation or dishonesty.
14. To respond or act promptly and cordially to correspondence or communication on issues related to the Chamber.
15. To act ethically and consistently in line with the Chamber mandate, purpose and Chamber policies and procedures at all times.

16. Not to receive payment or compensation of any kind, except as authorised by Chamber and payroll policies, for any work done for or on behalf of Chamber. In particular, Chamber strictly prohibits any acceptance of kickbacks and commissions from suppliers and other parties.
17. Not to use the information or privileges acquired by virtue of their position for private gain or to improperly benefit another person.
18. To avoid taking a decision on behalf of Chamber concerning a matter in which they, or their associates or relatives, have a direct or indirect personal or private business interest.
19. To ensure that they work and conduct themselves within their assigned limits of authority and not to communicate in a manner that purports to represent Chamber unless duly mandated or authorised to do so.

BREACH OF ETHICAL STANDARDS

Reporting a breach

Any potential or actual breach of ethical standards should be formally reported for investigation to the Chairperson of the Social and Ethics Committee, any member of the Social and Ethics Committee, the President or Vice President of Chamber / or the CEO ('key office bearers').

The only exception to this requirement is in the case that a report is made against any of the key office bearers. In such an event, the following persons should be advised.

- If the report concerns the Chairperson of the Social and Ethics Committee: the Chamber President and/or Vice President;

- If the report concerns a member of the Social and Ethics Committee: the Chairperson of the Social and Ethics Committee and the Chamber President and/or Vice President;
- If the report concerns the Chamber President: the Vice President and the Chairperson of the Social and Ethics Committee;
- If the report concerns the Vice President: the Chamber President and the Chairperson of the Social and Ethics Committee; or
- If the report concerns the CEO: the Chairperson of the Social and Ethics Committee and the Chamber President and/or Vice-President

Steps to be taken once a breach is reported

Once reported to any of the above persons other than the Chairperson of the Social and Ethics Committee, such person should immediately advise the Chairperson of the Social and Ethics Committee of the report and the Chairperson of the Social and Ethics Committee shall direct that an investigation be conducted subject to the process set out below. The only exception to this provision would be in the event that the report concerns the Chairperson of the Social and Ethics Committee, in which event the Chamber President should direct that an investigation be conducted subject to the process set out below.

Once reported, the breach should be investigated:

1. If the matter concerns an employee of Chamber, the Executive Director should ensure that an investigation is conducted in terms of Chamber employment policies and procedures and applicable labour laws;
2. If the matter concerns Chamber Directors, members, representatives or Office Bearers appointed through Chamber, the Chairperson of the Social and Ethics Committee shall promptly, together with the Social and Ethics Committee, determine

the nature and structure of the investigation as appropriate, including reference to the financial implications thereof

3. If the report is against a member of the Social and Ethics Committee or the Executive Director, the Chairperson of the Social and Ethics should take responsibility for such determination, together with the President and/or Vice President of Chamber.

Consequences if a breach is demonstrated

If the investigation reveals a potential breach, steps should be taken to address the issue with the Chamber representative with a view to rectifying the breach or taking further disciplinary and/ or remedial steps. Depending on the circumstances and severity of the breach:

- Employees may face disciplinary action that could lead to dismissal;
- Directors may be removed from the Board on the basis of misconduct or incapacity;
- Representative members or Office Bearers of Chamber may be removed from relevant structures and processes.

APPROVED: BOARD February 2021