



DRAFT CONSTITUTION
of the
CAPE CHAMBER OF COMMERCE AND INDUSTRY
2025

INTRODUCTION

Guide for interpretation of content

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1. DEFINITIONS

“AGM” means the Annual General Meeting of Members;

“Audit and Risk Committee” means the Standing (Permanent) Committee undertaking audit and risk governance tasks;

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

“Board” means, collectively, the Board Members from time to time;

“Board Committee” means a committee of the Board established by the Board for temporary purposes as directed by the Board;

“Board Members” means members of the Board, appointed or co-opted as such, from time to time;

“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 manner;

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

“Business Strategy” means the annually Board approved plans directed at the achievement of the financial business forecasts and Objectives of the Chamber;

“CGM” means Council Governance Meeting; with the specific purpose to brief Council on the performance of the Chamber as an institution for transparency and accountability;

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

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

“Chapter” means, depending on the context, a geographical area falling within the geographical area of the Chamber’s activities and/or the grouping of Members residing and/or carrying on business in that area;

“Chapter Committees” means a committee of a Chapter;

“Chapter Secretariat” means the Chamber employee tasked with the administrative duties of a particular Chapter;

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

“Code of Conduct” means the Code of Conduct contained in Addendum 3 of this Constitution;

“Commissioner” means the person or persons appointed by the South African Revenue Services as Commissioner in terms of the South African Revenue Service Act No 34 of 1997;

“Companies Act” means the Companies Act No 71 of 2008;

“Confidential Ballot” means voting at meetings by Members where the way a Member votes (in favour, against or abstain remains undisclosed);

“Connected Persons” means anyone with official representative duties whether these be in being a Board, Council or Committee member or as co-opted for serving Chamber interests in any way; 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 election by Council;

“Constitution” means this document;

“Council” means the council of the Chamber, being an elected body of Members supporting the Board in its governance role and facilitating dialogue between the Chamber and business in the Chamber’s geographical area;

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

“Exco” means the executive committee of the Chamber;

“Executive” means the Chamber’s employees responsible for the day-to-day execution of its strategy and the business plan;

“Fiduciary Care” or **“Fiduciary Duty”** 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 persons designated by the Board as honorary Members of the Chamber;

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

“ITA” means the Income Tax Act No 58 of 1962;

“LFC” means Lead Firm Consensus, comprising member lead firms cooperating to improve specific precincts;

“Life Members” means persons designated by the Board as life-long members of the Chamber;

“Members” means subscribing Members of the Chamber or persons deemed by the Board 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 Meeting” means an AGM or SGM;

“Members Register” means the register of Members;

“Objectives” means the objectives of the Chamber;

“Office” means ‘Official Chamber Position’ as described below;

“Official Chamber Position” refers to a position held on the Board, Board Committees, Council, Exco, Portfolio Committees and within Chapters;

“Ordinary Members” means members of the Chamber who are not Honorary Members;

“Ordinary Resolution” 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;

“Overriding Powers” means the authority of the Board to override decisions or proposals made by its subordinate ranks whether these be individuals, committees, Chapters or other representative bodies reporting to the Board as depicted in the organisation chart in Addendum 2 of this Constitution;

“Portfolio Committees” means portfolio committees of the Council;

“Pre-AGM Board Meeting” means the last meeting of the Board prior to an AGM;

“President” means the president of the Chamber, as elected by the Board;

“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 being guided by the advice of the Remuneration Committee;

“SDN” means Systemic Dialogue Network; a high-level dialogue platform for chamber business leaders to engage with public sector leaders and academia on prioritised issues;

“Special Resolution” 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;

“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 Members;

“Subscription” means the subscription moneys 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;

“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;

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

“Vote of No Confidence” means the process of voting out any official representative Chamber structure or committee (Board, Council, Standing or Portfolio Committees, Chapters or Ad-hoc Committees) wherein the representative members of that structure or committee resolve by a majority vote that any of its members or representatives is unworthy of their position and/or 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 –

- 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 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 date of adoption of this Constitution 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. PURPOSE AND OBJECTIVES OF THE CHAMBER

2.1. Purpose and Objectives

The Chamber (CAPE CHAMBER OF COMMERCE & INDUSTRY) exists for the *purpose* of serving its Members' best interests and to achieve, amongst others, the following *objectives* -

2.1.1. Providing valuable and relevant **SERVICES** to its Members that -

- 2.1.1.1 support business growth and development interests;
- 2.1.1.2 provide information for best business practices;
- 2.1.2.3 support representation and advocacy interests;
- 2.1.2.4 provide networking opportunities;
- 2.1.2.5 satisfy appropriate lobbying needs.

2.1.2. Fostering **ECONOMIC GROWTH** through -

- 2.1.2.1 promoting an investor-attractive business environment;
- 2.1.2.2 promoting Members' business growth through relevant business skills-development, coaching, mentorship, clustering and training programmes;
- 2.1.2.3 promoting sensitive environmental care and practices.

2.1.3. **REPRESENTING** Members' best interests by -

- 2.1.3.1 maintaining local and 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 achieving Chamber objectives.
- 2.1.4. Supporting and encouraging **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 and Value Proposition

- 2.2.1 **Vision:** Supporting a vibrant business community that supports the growth of a sustainable Western Cape economy.
- 2.2.2 **Mission:** Make it easier for business to succeed.
- 2.2.3 **Value Proposition:** Delivering meaningful business opportunities for members through extensive local and global networks and strategic interventions. Facilitate cooperation that enables improved competitiveness of our firms in markets, which leads to faster, sustainable economic growth.

2.3. Organisation Structure

The organisation structure is depicted in the Addendum to this constitution as Addendum 2 "Chamber Organogram".

3. LEGAL STATUS

3.1. Jurisdiction and 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, its value proposition, and in alignment with relevant laws that promote and regulate good business governance in South Africa.
- 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 through reasonable market-related compensation that would be normal in relation to the industry or sector in which the particular service provider operates.
- 3.1.4. The Chamber is organised to achieve its Objectives. It does so through a clear governance structure and exercising fiduciary care.

4. MEMBERSHIP

4.1. Members

The Chamber is a promotion of business and business membership organisation. Business members are represented by their nominated persons. 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.

4.2. Ordinary Members

- 4.2.1. Any business or non-profit organisation may apply to become an ordinary Member ("**Ordinary Member**").

- 4.2.2. If a business wishes to apply for Ordinary Membership the business shall apply in writing in the way directed 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 a 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 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 may be enrolled 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 may revoke the honorary membership of an Honorary Member, including Past Presidents, if it deems the decision to be in the best interests of the Chamber.

4.4. General

- 4.4.1. The Chamber shall always have at least three Ordinary Members.
- 4.4.2. There is no limit on the maximum number of Ordinary Members.
- 4.4.3. There is no limit on the minimum or maximum number of Honorary Members or Life Members.
- 4.4.4. 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 South African non-profit sector's best practice.

- 4.4.5. A Member may not transfer their Membership, or any rights attaching to the Membership to any person without the Board's prior written consent.

4.5. Subscriptions

- 4.5.1. Members shall pay annual Subscriptions to the Chamber as determined from time to time by the Board.
- 4.5.2. 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.
- 4.5.3. Members shall pay Subscriptions -
 - 4.5.3.1 in cash at the main office of the Chamber; or
 - 4.5.3.2 by electronic funds transfer or debit orders, free of set-off or deductions, to the bank account designated by the Board.

4.6. Rights of Members

- 4.6.1 Members enjoy all the privileges and facilities of the Chamber.
- 4.6.2 Each Member has the right –
 - 4.6.2.1 to inspect, and to request copies of the annual financial statements of the Chamber; and
 - 4.6.2.2 to receive notice of, and to attend and speak at Members Meetings.
- 4.6.3 Only Ordinary Members and Honorary Members have the right to vote at Members Meetings.

4.7. End of Membership

- 4.7.1 A Member may terminate their Membership by prior written notice to the Chamber of not less than 30 days.
- 4.7.2 A Member automatically ceases being a Member if –
 - 4.7.2.1 where the Member is a natural person, their estate is sequestrated;
 - 4.7.2.2 where the Member is not a natural person, it is liquidated, deregistered or placed under business rescue;
 - 4.7.2.3 they fail or refuse to pay their Subscription, or any other

money that they owe to the Chamber when due. Such debts remain due to, and recoverable by the Chamber despite Membership having ceased. They may be readmitted as a Member if the Board so resolves and if they have paid the arrears;

4.7.2.4 they fail or refuse to comply with this Constitution or any code of conduct adopted by the Board; or

4.7.2.5 they are convicted of any crime involving dishonesty, or any other offence deemed serious enough by the Board to damage the Chamber's reputation.

4.7.3 If a Member is a natural person, and their estate is sequestrated, they may, on rehabilitation, make a fresh application for Membership.

4.8. Expulsion and Suspension

4.8.1 If the Board believes that the conduct of a Member and the interests of the Chamber so require, it shall investigate the matter and may then decide to –

4.8.1.1 expel the Member; or

4.8.1.2 for a stated period, suspend their Membership.

Before making a decision to expel or suspend, the Board shall give the Member an opportunity to make representations, either verbally or in writing, as the Board may deem fit.

4.8.2 The decision of the Board is final.

4.8.3 An expelled or suspended Member –

4.8.3.1 has no claim against the Chamber; and

4.8.3.2 is not refunded any Subscription or part thereof already paid by the Member.

4.9. Register of Members

4.9.1. The Chamber shall maintain a register of all Members ("**Members Register**"), in the form of an electronic database or another form as the Board may determine.

4.9.2. 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.

- 4.9.3. The name and contact details of every Member shall be entered in the Members Register.
- 4.9.4. The Chamber shall regularly update the Members Register and remove the names of persons who have ceased being Members. The Chamber shall update the Members Register at least once a year.

5. GOVERNING STRUCTURE, FUNCTIONS AND 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 of the Chamber's business with informed oversight; and
- IV. legitimacy: trust and confidence in the Chamber by stakeholders and the communities in which it operates.

5.1. Chamber

The Chamber shall consist of the following structures, including Office Bearers, as follows -

- I. Board
 - II. Exco
 - III. Board Sub-Committees
 - IV. Council
 - V. Chamber staff
 - VI. Any other committees and/or structures deemed appropriate by the Board from time to time.
-
- 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 may own property and other assets and may sue and be sued in its own name.
- 5.1.4 The Chamber may acquire and hold securities in for-profit companies, but 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 ITA and such other tax exemptions as the Commissioner 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 Objectives.
- 5.1.8 The Chamber shall use substantially the whole of its funds to further its Objectives.
- 5.1.9 No Member may directly or indirectly have any personal or private interest in the Chamber.
- 5.1.10 The Chamber will not pay to any employee, office bearer, member or other person any remuneration which is excessive, having regard to what is generally considered market-related and 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 determined from time to time by the Board and that are directed through services provided for the benefit 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 ITA, or a transaction, operation or scheme contemplated in section 103 of the ITA.
- 5.1.14 All Chamber employees, Board Members, Council Members and Committee Members shall sign the Code of Conduct and 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 the Board

The Board exists to:

- 5.2.1.1. preserve and secure the assets and enterprise of the Chamber, and ensure the continuity and 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;
- 5.2.1.6. prepare, approve and manage the annual Financial Plans and the Chamber's budget;
- 5.2.1.7. approve and implement auditable Policies and Procedures that delegate authority limits and define standard operating procedures for managing the Chamber's financial and administrative affairs and services offered to Members;
- 5.2.1.8. manage the performance of the CEO 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 Board 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;
- 5.2.1.17. establish and elect the Audit and Risk Committee every three years and the Finance and Investment Committee annually;
- 5.2.1.18. manage and monitor systems of risk management and internal compliance and controls, codes of conduct and legal compliance;
- 5.2.1.19. perform all its tasks with fiduciary care and make decisions that are within its powers and authority, as are aimed at serving the best interests of the Chamber and Members.

5.2.2. Composition of Board

- 5.2.2.1 Subject to 5.2.2.1.2 the Board shall consist of at least nine Board Members, of which:
 - 5.2.2.1.1 seven Board Members are elected by the Council;
 - 5.2.2.1.2 one Board Member is the immediate Past President of the Chamber, or if not available, the preceding available Past President, or left vacant at the discretion of the Board and,
 - 5.2.2.1.3 one Board Member is the CEO of the Chamber
- 5.2.2.2 The Board may co-opt (but is not obliged to co-opt) no more than three additional individuals to be members of the Board. Those individuals shall be eligible to be Board Members under this Constitution and are vetted by the Board. These co-opted Board Members need not be 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 invalidate 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 commence the process of appointing additional Board Members as may be required, including the calling of a meeting of the Board for that purpose; provided that if there is no Board Member able or willing to act, then any Member may commence such process and call such meeting.

5.2.3. Eligibility and Term of Office of Board Members

- 5.2.3.1 A person shall be eligible to serve as a Board Member if that person would be eligible to serve as a director of a company in terms of the Companies Act.
- 5.2.3.2 Only members in good standing may serve as a Board Member and attend Board meetings.
- 5.2.3.3 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.
- 5.2.3.4 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.
- 5.2.3.5 Two Board Members (from both Council-elected and co-opted Board Members), are deemed to have retired at the end of the Pre-AGM Board Meeting, unless otherwise resolved by the Board in the best interests of the Chamber.
- 5.2.3.6 The order in which the Board Members are deemed to have retired is –
 - 5.2.3.6.1 first, the Board Members who elect to retire;
 - 5.2.3.6.2 second, if the Board Performance Review Process indicates that a Board Member is not performing, the Board recommends that a Board Member be retired based upon that performance

review, the Board shall consider the recommendation and make a determination;

5.2.3.6.3 third, an appointed Board member that has served five consecutive terms of office is deemed to have retired and shall undergo the re-election process in order to continue serving, unless the Board determines otherwise in the best interests of the Chamber.

5.2.3.7 All retiring Board Members may be nominated and re-elected and shall undergo the 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 nine persons, who are not Connected Persons in relation to each other, to accept the responsibility of being a Board Member and serving the best interests of the Chamber.

5.2.5 **Board Member Nominations and Election**

5.2.5.1 Only Members in good standing may nominate persons for appointment as Board Members.

5.2.5.2 Only parties unrelated to the nominee and persons who are not Connected Persons in relation to the nominee may act as proposers and seconders to nominate persons for appointment as Board Members.

5.2.5.3 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.

5.2.5.4 A proposer wishing to nominate a person shall give the Board the details of the nominee in the form prescribed by the Board. The form shall contain at least -

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

- 5.2.5.4.2 the name and signature of the proposer;
- 5.2.5.4.3 the name and signature of the seconder;
- 5.2.5.4.4 a written motivation by the proposer indicating the reasons for the nomination, including particulars of the attributes, skills and experience of the nominee; and
- 5.2.5.4.5 a declaration by the proposer that, to the best of their knowledge, the nominee is eligible to be a Board Member.
- 5.2.5.4.6 the curriculum vitae of the nominee shall accompany that form.
- 5.2.5.4.7 On receipt of a nomination the Board shall consider the nomination and the suitability of the nominee, and then approve or decline the nomination.
- 5.2.5.4.8 When considering a nomination, the Board shall take into account and approve or disqualify nominees according to the following criteria:
 - 5.2.5.4.8.1 The nominee shall be an individual of the highest integrity;
 - 5.2.5.4.8.2 The nominee shall be willing and able to devote sufficient time to the affairs of the Chamber;
 - 5.2.5.4.8.3 The nominee shall have knowledge about the Objectives and functioning of the Chamber;
 - 5.2.5.4.8.4 The nominee shall show creativity and leadership in their business and community;
 - 5.2.5.4.8.5 The nominee shall know what the duties of persons in a fiduciary position, such as a Board Member, entail;
 - 5.2.5.4.8.6 Nominees shall pass criminal and credit checks in order to be considered suitable;
 - 5.2.5.4.8.7 The Board shall foster diversity

across, among other things, race,
gender and age.

- 5.2.5.5 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.
- 5.2.5.6 That notice shall also state that any Council member who may be dissatisfied with the nomination of any approved nominees may, by written notice to the Council, object to the nominations.
- 5.2.5.7 The Council may only consider an objection if it –
 - 5.2.5.7.1 is in writing, signed by or on behalf of a Council member;
 - 5.2.5.7.2 is delivered to the main office of the Chamber at least three days before the date of the Council meeting;
 - 5.2.5.7.3 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;
 - 5.2.5.7.4 contains substantive reasons and a motivation for the objection.
- 5.2.5.8 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.
- 5.2.5.9 Council members only have as many votes as there are Board vacancies.
- 5.2.5.10 There is only one round of voting. Only nominees who attracts 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 following process -
 - 5.2.5.10.1 no alternate Board Members may be appointed;
 - 5.2.5.10.2 no election of a Board Member takes effect until

he or she has delivered to the Chamber a written consent to serve.

- 5.2.5.11 No person may be elected as a Board Member if he or she is ineligible or disqualified. Any such election is void. 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.

5.2.6 **Board Performance Review**

The Board shall conduct self-assessments to review the performance of the Board and the individual Board Members every year. Once every third year, an external party will be contracted to review the performance of the Board.

- 5.2.6.1 The Board shall determine its own role, functions, duties and performance criteria as well as that for individual Board Members to serve as a benchmark for the performance review.

- 5.2.6.2 The results of performance reviews shall be considered by the Board with a view to identifying training needs for Board Members.

- 5.2.6.3 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.

- 5.2.6.4 The Board shall take into account the following criteria when reviewing the performance of the Board, namely, whether -

the Board –

- 5.2.6.4.1 complies with its specific duties under this Constitution;

- 5.2.6.4.2 has set itself clear performance objectives and has measured its performance against them;

- 5.2.6.4.3 formulates business objectives, strategies and plans and regularly monitors their execution;

- 5.2.6.4.4 regularly receives and considers reports on the financial position of the Chamber, and ensures

- that financial controls are robust;
- 5.2.6.4.5 has responded appropriately to any problems or crises that arose;
- 5.2.6.4.6 communicates well with Members, the Council, Board Committees and outside persons;
- 5.2.6.4.7 formulates policies and practices for managing significant risks and regularly monitors their execution;
- 5.2.6.4.8 monitors the performance of the CEO and Board Committees;
- 5.2.6.4.9 has appointed qualified employees, and is monitoring their performance; and
- 5.2.6.4.10 has implemented human resources policies and practices, and is monitoring their execution; and

Individual Board Members –

- 5.2.6.4.11 still comply with the original nomination criteria;
- 5.2.6.4.12 attend, prepare for, and participate in Board meetings;
- 5.2.6.4.13 demonstrate a willingness to devote time and effort to understanding the business of the Chamber;
- 5.2.6.4.14 participate in events outside the boardroom; and
- 5.2.6.4.15 stay informed regarding developments in business and industry.

5.2.7 **Appointment of President, Deputy President and Honorary Treasurer**

- 5.2.7.1 At the Pre-AGM Board Meeting, the 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.
- 5.2.7.2 The appointment of newly Council-elected and co-opted Board Members are only ratified at the AGM and therefore they cannot participate in the voting process of the Pre-AGM Meeting for the

election of the President, Deputy President, and Honorary Treasurer for the upcoming term.

5.2.7.3 The purpose of the Deputy President is to shadow and support the President and act as an alternate in the absence of the President. Hence, ideally the Deputy President should succeed the outgoing President unless otherwise determined by the Board in the best interests of the Chamber.

5.2.7.4 The Board must conduct a succession planning session once per term.

5.2.7.5 The President –

5.2.7.5.1 means the duly elected President of the Chamber;

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

5.2.7.5.3 is by virtue of his or her office (*ex officio*) a member of all Committees duly formed;

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

5.2.7.5.4.1 keep order;

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

5.2.7.5.4.3 in the event of a tie of votes, has a second or casting vote if presiding.

5.2.7.6 The Deputy President –

5.2.7.6.1 means the duly elected Deputy President of the Chamber; and

5.2.7.6.2 in the absence of the President, acts for the President and has and exercises all the rights, privileges and powers of the President.

5.2.7.7 The Honorary Treasurer –

5.2.7.7.1 means the duly elected Honorary Treasurer of the Chamber;

- 5.2.7.7.2 shall monitor the financial administration of the Chamber; and
- 5.2.7.7.3 shall report to the Board and Council at regular intervals on the state of the Chamber's financial health, in line with best practice, and in compliance with legal requirements.

5.2.8 Cessation of Board Member Positions

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

- 5.2.8.1 when they become ineligible or disqualified or the Board resolves to remove them on that basis;
- 5.2.8.2 when their term of office expires under this Constitution;
- 5.2.8.3 when they die;
- 5.2.8.4 when they resign by prior written notice to the Board;
- 5.2.8.5 if the Board determines that they have become incapacitated to the extent that they are unable to perform the functions of their office, and are unlikely to regain that capacity within a reasonable time;
- 5.2.8.6 if they are removed by the Board for being negligent or derelict in performing their functions;
- 5.2.8.7 if they are removed by the Board for bringing the Chamber into disrepute;
- 5.2.8.8 if they (i) file an application for sequestration or debt review, (ii) commit an act of insolvency as defined in the insolvency law in force, or (iii) makes any arrangement or composition with their creditors post default;
- 5.2.8.9 if they are otherwise removed under this Constitution;
- 5.2.8.10 if the Board so decides, if they are 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;
- 5.2.8.11 if they cease being eligible to serve as a director in terms of the Companies Act; or

5.2.8.12 if a Board Performance Review indicates that a Board Member be dismissed based upon results of their performance review and the Board resolves to dismiss that Board Member.

5.2.9 Board Performance Review Process

A baseline level of performance is non-negotiable. Baseline performance requirements will be set from time to time by the Board and will be binding on all Board members.

5.2.10 Removal and/or Sanction of Board Members

- 5.2.10.1 A Vote of No Confidence procedure may be tabled without prior notice at a Board Meeting, should one or more Board members deem it necessary for a Board Member to be removed based upon reasons cited in 5.2.6 or for any reasons considered valid by majority vote of the Board.
- 5.2.10.2 Where a Vote of No Confidence in a Board Member is tabled that Board Member is not obliged to respond immediately and may elect to reply within seven working days.
- 5.2.10.3 Should the Board decide that the reasons cited require further investigation, the Board may form a sub-committee to conduct a preliminary investigation to clarify the issues and the extent of dissatisfaction among the Board Members before proceeding with the Vote of No Confidence.
- 5.2.10.4 In order to avoid a Vote of No Confidence and if the Board deems it necessary, a direct intervention may be used to request 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.
- 5.2.10.5 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. voting shall be conducted by Secret Ballot.
- V. a majority vote of the board shall be required to effect the removal
- VI. the results shall be communicated to the Board Member in question

5.2.10.6 The outcome of the vote shall be taken into account by 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 procedures.

5.2.10.7 Should an allegation be made against a Board Member at an AGM, the Board shall call a Board meeting to determine the matter. If the Board determines that the allegations have merit, the Board Member in question may be removed by an Ordinary Resolution 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

5.3.1.1 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 CEO.

5.3.1.2 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

5.3.2.1 Exco consists of –

- 5.3.2.1.1 the President;
- 5.3.2.1.2 the Deputy President;
- 5.3.2.1.3 the Honorary Treasurer; and
- 5.3.2.1.4 the Immediate Past President of the Chamber or if not available, the preceding available Past President, or left vacant as determined by the Board.

5.3.2.2 All persons nominated for Exco positions need to have served at least two Chamber Terms on the Board.

5.3.3 Term of Office of Exco Members

The term of office for Exco Members is one Chamber Term, and those members may be re-elected for any position on Exco in successive years.

5.3.4 Appointment of Exco Members

The Board shall elect by Secret Ballot 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 Member 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 exists to serve two main purposes. Firstly to support the Board in its governance role. Secondly as a dialogue structuring mechanism to improve cooperation across all elements of the economic eco-system as described in 5.4.1.3.

5.4.1 Functions of Council

The governance functions are to -

- 5.4.1.1 advise the Board on Policy and corporate governance issues;
- 5.4.1.2 elect the seven Council-elected Board Members by way of Confidential Ballot.

The dialogue structuring mechanism functions are to -

- 5.4.1.3 promote economic eco-system network co-operation, that is, promoting co-operation with academia, local, provincial and national government and the public and private sectors;
- 5.4.1.4 facilitate dialogues to unlock economic opportunities in the geographical area of the Chamber including, reducing key impediments to economic growth.

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 the Chairperson and Vice Chairperson from each Chapter and Lead Firm Consensus (LFCs) (as further described in 5.10.1);
- 5.4.2.4 5 persons elected by the Board;
- 5.4.2.5 5 persons elected by Council; and
- 5.4.2.6 no more than 3 recent Past Presidents of the Chamber, available and willing to serve on the Council.

The Systemic Dialogue Network (“SDN”), hosted by Council, includes

selected non-members. Leaders of strategic partners who share and can help the Chamber better achieve its vision, may be co-opted onto the SDN in various roles, as approved by the Board. Strategic partners may include government departments, state owned entities and educational institutions. The purpose of the SDN is to enable an environment within which key leaders can identify better options to co-create a stronger economy.

5.4.3 Eligibility and Term of Office of Council Members

- 5.4.3.1 Only a member in good standing may serve as a Council Member and attend Council Governance Meetings (CGM).
- 5.4.3.2 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. The Board may approve the renewal of existing Council member terms without undergoing the re-election process.
- 5.4.3.3 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 void. 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.
- 5.4.3.4 All Council members must sign the Chamber disclosure form, as determined by the Board.

5.4.4 Appointment of Council Members

- 5.4.4.1 Council Members are appointed through an election process.
- 5.4.4.2 Only Members in good standing may propose nominees to serve on Council.
- 5.4.4.3 Only Members that are unrelated parties may propose 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-related proposer;

5.4.4.5.3 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 -

5.4.4.6.1 the nominee shall be an individual of 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 of the Objectives and functioning of the Chamber;

5.4.4.6.4 the nominee shall show creativity and leadership in their 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 Council a notice listing the approved nominees together with the applicable form and the curriculum vitae of each approved nominee, and Council shall be given the opportunity to elect their 5 Council-elected members.

5.4.4.8 That notice shall 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 such 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 the 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 Council shall, at a meeting held before the Pre-AGM Board Meeting (that is, before the relevant AGM), elect the 5 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 by “round robin” (that is, a written resolution signed by a majority of Board Members), elect the 5 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, Board Committees and any other subsidiary committees.

5.4.5 Cessation of Council Member Positions

A Council Member ceases holding office –

5.4.5.1 when they become ineligible or disqualified or the Board resolves to remove them on that basis;

5.4.5.2 when their term of office expires under this Constitution;

5.4.5.3 when they die;

5.4.5.4 when they resign by prior written notice to the Board;

5.4.5.5 if the Board determines that they have become incapacitated to the extent that they are unable to perform the functions of their office, and are unlikely to regain that capacity within a reasonable time;

5.4.5.6 if they are removed by the Board for being negligent or derelict in performing their functions;

5.4.5.7 if they are removed by the Board for bringing the Chamber into disrepute;

5.4.5.8 if they are otherwise removed under this Constitution.

5.4.6 Removal of Council Members

- 5.4.6.1 A Council Member may be dismissed or suspended from office and have their membership revoked in the same manner as applicable to Members as provided in 4.8.
- 5.4.6.2 If the Board is of the opinion 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 Member, it shall investigate the matter and may then determine to –
 - 5.4.6.2.1 expel the Council Member; or
 - 5.4.6.2.2 for a stated period, suspend their membership.
- 5.4.6.3 Before making a decision regarding dismissal or suspension, the Board shall give the Council Member an opportunity 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

5.5.1 Functions of the CEO

The functions of the CEO shall be as set out in his or her job description and terms of employment as determined by the Board and, in particular, shall be to:

- 5.5.1.1 serve as a member of the Board for the duration of his or her contract;
- 5.5.1.2 provide strategic direction, to develop, implement and monitor the annual strategic plan and to respond tactically to unexpected events at short notice;

- 5.5.1.3 manage stakeholder engagement and raise the Chamber's profile and reputation, in conjunction with the President;
- 5.5.1.4 manage, foster and develop positive working relationships with private and public sector bodies, in conjunction with the Chamber team, including the Executive management team;
- 5.5.1.5 engage with Members to reinforce the value-adds available to members, ensuring that there is a net membership growth with substantial retention and minimal attrition;
- 5.5.1.6 schedule, oversee and manage meetings, ensuring reports and minutes are submitted timeously;
- 5.5.1.7 effectively manage all staff and provide support and guidance to volunteers in various Chamber committees and sub-committees;
- 5.5.1.8 ensure that Corporate Governance is maintained;
- 5.5.1.9 ensure financial sustainability through the generation of revenue and cost controls;
- 5.5.1.10 improve financial sustainability through planning and implementing new sources of revenue generation and sales;
- 5.5.1.11 ensure accurate, adequate and timely reporting to the Board;
- 5.5.1.12 ensure adherence to all Chamber policies and procedures put in place by the Board;
- 5.5.1.13 maintain and update a Risk Register with a high-level summary being presented to the Board on a quarterly basis;
- 5.5.1.14 ensure that proper credit management controls and procedures are being adhered to by the relevant staff members;
- 5.5.1.15 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; and
- 5.5.1.16 attend Board Meetings.

5.5.2 **Appointment of CEO**

The Board shall –

- 5.5.2.1 appoint any person (whether a Member or not) as CEO of the

Chamber for a period, at the remuneration and on the other terms as it may deem fit; and

- 5.5.2.2 subject to any contract between the Chamber and the CEO (i) remove them, and (ii) appoint some other person as Chief Executive Officer in their place.

5.5.3 Eligibility and Term of Office of CEO

- 5.5.3.1 The CEO shall hold the necessary qualifications, skills and experience as determined by the Board.
- 5.5.3.2 To serve as CEO a person shall be eligible to serve as a director of a company in terms of the Companies Act.
- 5.5.3.3 No CEO may hold any remunerated position within any registered political party.
- 5.5.3.4 The CEO's term of office shall be governed by the terms of an employment contract.

5.5.4 Cessation of CEO Position

The CEO ceases holding office as soon as the term provided for by employment contract has expired or the Board dismisses the CEO in accordance with prevailing legislation.

5.6 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 and Risk (mandatory under 5.7)
- II. Governance – Finance and Investment (mandatory under 5.8)
- III. Governance – Social and Ethics (non-mandatory but can be constituted as and when required by the Board)

The Board delegates functions 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 and Risk 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.

5.6.1 Functions of Board Committees

The Board determines the mandate for each Board Committee.

- 5.6.1.1 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 or responsibilities by reason of such delegation.
- 5.6.1.2 Any written reports and recommendations issued by a Board Committee shall record any dissenting minority views about the subject matter.
- 5.6.1.3 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.
- 5.6.1.4 Each Board Committee shall draft a policy and procedure document for approval by the Board.

5.6.2 Appointment and Composition of Board Committees

- 5.6.2.1 The Board may delegate to the Board Committees any authority of the Board.
- 5.6.2.2 A person shall be eligible to serve on a Board Committee if that person would be eligible to serve as a director in terms of the Companies Act.
- 5.6.2.3 The members of the Board Committees may include persons who are not Board Members.
- 5.6.2.4 The Board may determine the composition and membership of each Board Committee, except where otherwise provided under this Constitution.
- 5.6.2.5 Except in the case of the Audit and Risk Committee the chairperson of each Board Committee shall be a Board

Member designated by the Board.

5.6.3 Eligibility and Term of Office of Board Committees

- 5.6.3.1 The Board determines the term of a Board Committee. The Board may change any decisions affecting a Board Committee and may dissolve any Board Committee, without prior notice and without giving reasons.
- 5.6.3.2 A person who is ineligible or disqualified to be a Board Member under this Constitution is not eligible and may not consent to be appointed as a member of a Board Committee.
- 5.6.3.3 A person ceases being a member of a Board Committee immediately if they become ineligible or disqualified to be a Board Member.

5.7 Audit and Risk Committee

5.7.1 Functions of Audit and Risk Committee

The function of the Audit and Risk 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 put into place by the Board, the Finance and Investment Committee and/or the Chambers' finance department. In particular, these functions include -

- 5.7.1.1 ensuring the integrity of the Chamber's financial statements and accounting policies;
- 5.7.1.2 ensuring the effectiveness of internal controls, governance and financial risk management systems;
- 5.7.1.3 reviewing the annual financial statements;
- 5.7.1.4 generally, reviewing the financial affairs of the Chamber;
- 5.7.1.5 giving advice;
- 5.7.1.6 compiling a risk register;
- 5.7.1.7 regularly reviewing the risk profile of the Chamber and rate the risks accordingly;
- 5.7.1.8 liaising with the Finance and Investment Committee with

- regards to financial risks;
- 5.7.1.9 identifying, assessing and managing top business risks and associated opportunities;
- 5.7.1.10 providing oversight of risk appetite and risk tolerance appropriate to each business line of the Chamber;
- 5.7.1.11 drafting appropriate policies and procedures relating to risk management governance, risk management practices and risk control infrastructure for approval by the Board;
- 5.7.1.12 providing recommendations to the Board to capitalise on strategic opportunities;
- 5.7.1.13 assessing and monitoring technology opportunities and risks, information management and cybersecurity;
- 5.7.1.14 identifying and reporting risks and risk-management deficiencies, including emerging risks;
- 5.7.1.15 making effective and timeous recommendations to the Board for the implementation of corrective actions to address risk management deficiencies;
- 5.7.1.16 making recommendations to the Board regarding employee authority and independence to carry out risk management responsibilities; and
- 5.7.1.17 monitoring compliance with the Chamber's risk limit structure and policies and procedures relating to risk management governance, practices and risk controls.

5.7.2 Meetings of Audit and Risk Committee

- 5.7.2.1 The Audit and Risk Committee shall meet at least four times during the Chamber Term.
- 5.7.2.2 An independent, suitably qualified person shall preside at any meeting of the Audit and Risk Committee.
- 5.7.2.3 The Audit and Risk Committee 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.
- 5.7.2.4 The Chamber's Financial Manager and the CEO may attend, by invitation, meetings of the Audit and Risk Committee for the

purposes of reporting.

5.7.3 Appointment and Composition of Audit and Risk Committee

The Audit and Risk Committee shall comprise of at least the following persons –

- 5.7.3.1 the Honorary Treasurer;
- 5.7.3.2 at least one other Board member; and
- 5.7.3.3 a minimum of two and maximum of four independent members, appointed by the Board, with one as Chair.

5.7.4 Eligibility and Term of Office of Audit and Risk Committee Members

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

5.8 Finance and Investment Committee

5.8.1 Functions and Meetings of the Finance and Investment Committee

- 5.8.1.1 The Finance and Investment Committee assists the Board in overseeing the budget process. The Finance and Investment Committee shall propose financial 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.
- 5.8.1.2 The Finance and Investment Committee shall comprise of the CEO, the Honorary Treasurer, the Finance Manager and at least two other members appointed by the Board.
- 5.8.1.3 The Finance and Investment Committee will also make 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.

5.8.2 Appointment and Composition of Finance and Investment Committee

- 5.8.2.1 The Board shall determine the composition of the Finance and Investment Committee.
- 5.8.2.2 A Board Member shall chair the Finance and Investment Committee.

5.8.3 Eligibility and Term of Office of Finance and Investment Committee Members

- 5.8.3.1 A person who is ineligible or disqualified to be a Board Member

under this Constitution shall not be eligible and may not consent to be appointed as a member of the Finance and Investment Committee.

5.8.3.2 The Board shall establish and annually elect a Finance and Investment Committee.

5.8.3.3 Only Members in good standing may serve on the Finance and Investment Committee.

5.9 Portfolio Committees

5.9.1 Functions of Portfolio Committees

5.9.1.1 A Portfolio Committee shall, subject to this Constitution –

5.9.1.1.1 consider and debate issues that impact on business;

5.9.1.1.2 develop policy decisions in respect of its area of expertise for the Chamber;

5.9.1.1.3 start appropriate action in respect of related business matters when required; and

5.9.1.1.4 report back to Council on developments within their particular economic sector or portfolio.

5.9.2 Appointment and Composition of Portfolio Committees

5.9.2.1 The Board may permit the formation of Portfolio Committees to benefit Members in a particular economic sector, or with particular business interests.

5.9.2.2 The Board may only allow the formation of a Portfolio Committee if it is satisfied that a reasonable need exists for the Chamber.

5.9.2.3 When allowing the formation of a Portfolio Committee, the Board may impose terms and conditions as it sees fit.

5.9.2.4 The Board shall invite Members by means of written notifications, and at its office and at other venues as determined by the Board, to nominate persons to serve on Portfolio Committees.

5.9.2.5 The Board shall approve and elect all Portfolio Committee Members.

5.9.3 Eligibility and Term of Office of Portfolio Committees

5.9.3.1 The Board shall determine the election process and the quorum for meetings of Portfolio Committees.

5.9.3.2 The Board shall determine the size of each Portfolio Committee.

5.9.3.3 The term for Portfolio Committees is one Chamber Term with no restriction on serving successive terms.

5.9.3.4 Only Members in good standing may serve on Portfolio Committees.

5.10 Chapters and Lead Firm Consensus (“LFCs”)

5.10.1 Functions of Chapters and LFCs

5.10.1.1 A Chapter and/or LFC Committee shall, subject to this Constitution –

5.10.1.1.1 consider any matter relevant to its Chapter or LFC;

5.10.1.1.2 refer appropriate matters to the Board for consideration;

5.10.1.1.3 report to Council on Chapter And LFC activities; and

5.10.1.1.4 act in the best interests of members of the Chapter or LFC.

5.10.1.2 Chapters and LFC’s 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.

5.10.1.3 A Chapter or LFC Committee may make decisions about matters affecting members of the Chapter or LFC 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.

5.10.1.4 Chapter or LFC Committees may appoint representatives to serve on other bodies dealing with matters affecting the

Members in that geographical area.

5.10.1.5 Chapter and LFC Committees may co-opt Committee Members.

5.10.2 Formation and Composition of Chapters and LFCs

5.10.2.1 The Board may permit the formation of Chapters and LFCs to benefit Members in a particular geographical area, or with particular business interests.

5.10.2.2 The Board may only allow for the formation of a Chapter or LFC if it is satisfied that a reasonable need exists for the Chapter or LFC.

5.10.2.3 When allowing the formation of a Chapter or LFC it may impose terms and conditions as it sees fit.

5.10.2.4 Before a Chapter or LFC may be formed, the proposed Chapter shall have at least 50 members and LFCs at least 5 lead firm members or such lesser number of Members as the Board may determine.

5.10.2.5 The Board may form a Committee for each Chapter and LFC.

5.10.2.6 The Board shall invite Members by written notification, and at its office and at other venues as determined by the Board, to nominate persons to serve on Chapter and LFC Committees.

5.10.2.7 The Board shall approve and elect all Chapter and LFC Committee Members.

5.10.2.8 The President and the CEO are members of every Chapter and LFC Committee by virtue of his or her office (*ex officio*) and may attend, speak at and vote at the meetings of the Chapter and LFC Committees.

5.10.2.9 The President may arrange a general meeting of Members in the geographical area for election of the Chapter and LFC Committees.

5.10.2.10 Members of Chapters and LFC's are not relieved from their obligation to pay Subscriptions and other charges owing by them to the Chamber.

5.10.2.11 Each Chapter and LFC, regardless of the number of Members in that Chapter or LFC, is represented by at least one person on the Council.

- 5.10.2.12 For every 50 additional members from the date that the Chapter was constituted, the Chapter has one additional representative on the Council.
- 5.10.2.13 A Chapter has no more than three representatives on the Council.
- 5.10.2.14 If a Chapter and LFC 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.
- 5.10.2.15 If a Chapter or LFC fails to nominate a person to represent it on the Council the Board may appoint a suitable person it deems fit to represent the Chapter or LFC on the Council.
- 5.10.2.16 If the Board wishes to object to a particular representative of a Chapter or LFC it shall give written notice to the nominee and the Chapter and -
- 5.10.2.16.1 the notice shall set out the reasons for the objections.
 - 5.10.2.16.2 the Board shall give the nominee and the Chapter or LFC an opportunity to make representations and shall consider those representations.
 - 5.10.2.16.3 the Board shall then, on reasonable grounds, determine the suitability of the person to serve as a member of Council.

5.10.3 Eligibility and Term of Office of Chapter Committee Members and LFCs

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

5.11 Board Compliance Officer

The Board may elect a Board Compliance Officer and determine the functions and terms of such office.

5.12 Chapter and LFC Secretariat

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

- 5.12.1 scheduling and coordinating all Chapter and LFC meetings;
- 5.12.2 recording Minutes of Chapter and LFC meetings;
- 5.12.3 attending to all action points arising from meetings;
- 5.12.4 coordinating and attending to the logistics of Chapter networking events;
- 5.12.5 attending to Committee Member nominations;
- 5.12.6 ensuring all Committee Members sign the Code of Conduct; and
- 5.12.7 identifying and addressing needs of Members in the relevant areas.

6 POWERS OF THE ORGANISATION

6.1 Chamber

The Chamber exists as an organisation that promotes the growth of businesses in the economy of the region in which it operates and is organised as an organisation comprising 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. The Board -

- 6.2.1 may exercise all such powers of the Chamber as are not under the Constitution required to be exercised by the Chamber in a Members

- Meeting;
- 6.2.2 may exercise all such powers of the Chamber as are, subject to regulations adopted 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 adopted;
- 6.2.3 may form and maintain any non-contributory or contributory pension, superannuation, provident and benefit funds for the benefit of Members;
- 6.2.4 may make payments towards the insurance, pensions, gratuities and allowances of -
- 6.2.4.1 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;
- 6.2.4.2 any persons who are or were associated with the Chamber or any such subsidiary; and
- 6.2.4.3 the husbands, wives, widowers, widows, families and dependants of those persons.
- 6.2.5 may regulate the general expenses of the Chamber and fix the remuneration of all employees, in consultation with the CEO;
- 6.2.6 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;
- 6.2.7 may 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;
- 6.2.8 shall conduct and manage the business and operations of the Chamber;
- 6.2.9 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 –
- 6.2.9.1 may contain terms to protect persons dealing with the agent as the Board may deem fit; and
- 6.2.9.2 may authorise the agent to delegate all or any of those powers, authorities and discretions.
- 6.2.10 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;
- 6.2.11 may suspend or expel Members, Council Members and Board Members subject to the rules set out within this Constitution;
- 6.2.12 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;
- 6.2.13 may form any number of Board Committees and delegate any powers and responsibilities as they deem fit to such committees;
- 6.2.14 may appoint, dismiss and manage the performance of the CEO 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 to be made or actions to be 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 CEO 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 Committees

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

6.7 Audit and Risk Committee

Other than the prescribed functions under this Constitution, the Audit and Risk Committee has no additional powers or decision-making authority.

6.8 Finance and Investment Committee

Other than the prescribed functions under this Constitution, the Finance and Investment Committee has no additional powers or decision-making authority.

6.9 Portfolio Committees

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

6.10 President

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

- 6.10.1 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 the Board;
- 6.10.2 The President chairs all Board and Council meetings.

6.11 Deputy President

The Deputy President does not have any additional powers or decision-making authority in addition to those which are afforded to Board members, provided 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.

6.12 Honorary Treasurer

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

6.13 Immediate Past President

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

6.14 Past Presidents

Past Presidents, whether serving on Council or not, do not have any 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, request it to do so.
- 7.1.3 The Board may determine what period of notice shall be given for 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 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 six times a year.
- 7.1.8 The Board shall hold a meeting no more than 60 days before each AGM. That Board meeting is called 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 provided 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 constituting 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 constituted.
- 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 for 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 constitute 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 adopt that resolution.
- 7.1.18 In the event of a tied vote the President has a deciding vote in addition to a deliberative vote. If the President is absent then this 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 they were 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 the resolution is adopted, 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 adopted 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 in number of the members of the Council.
- 7.2.2 All decisions of the Council are taken by simple majority of 50 percent in number 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 twice a year for the purpose of governance (CGM), and in addition at least four times per year for the purpose of public-private sector dialogues (SDN).
- 7.2.5 Council Governance Meetings (CGM) are strictly for Council Members only.
- 7.2.6 Council organised Public-Private sector dialogues events (SDN) include partners from the Public sector and persons from Academia who do not need

to be members. They just need to be able and willing to assist the Chamber meet its goals.

- 7.2.7 The Chamber shall keep minutes of Council Meetings and a record of all decisions taken.
- 7.2.8 If neither the President nor the Deputy President is 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.
- 7.2.9 In the event of a tied vote the President, Deputy President or chairperson has a deciding vote in addition to a deliberative vote.
- 7.2.10 The procedures for Council meetings are the same as those of Board meetings, with changes as may be required by the context.
- 7.2.11 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.

7.3 Exco

The Exco determines its own format and frequency of meetings.

7.4 Board Committees

Board Committees shall meet as relevant, and until their purpose has been served

7.5 Portfolio Committees

Portfolio Committees shall meet as relevant, and until their purpose has been served.

7.6 Chapter Committees

Chapter Committees shall meet as relevant, and until their purpose has been served.

7.7 Lead Firm Consensus (LFC) Committees

LFC Committees shall meet as relevant, and until their purpose has been served.

8 MEMBERS MEETINGS

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 within the specified period whereafter an AGM shall be held no later than 90 business days after the SGM.
- 8.1.2 At least the following business shall be transacted at the AGM, namely –
 - 8.1.2.1 the presentation of the annual financial 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 annual 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 provided in 8.4 to attend, participate in, speak at and vote at the meeting instead 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 direct.
- 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 in number 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 refers 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 on shorter 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 matters 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 detail 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 adopted, 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 in number of Members.

8.4 Members' Representatives and 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 they represent.

8.4.3 An Ordinary Member may appoint a proxy to attend, participate in, speak at and vote at a Members Meeting instead of that Member.

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 Member chooses to act directly and in person in the exercise of any rights as a 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 exercised under a form of proxy is valid despite the revocation of the form or of the authority under which the vote 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 of proxy 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 they deem 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 contained in **Addendum 1**.

8.5 Quorum

- 8.5.1 Unless stated otherwise, a quorum for a Members Meeting is five percent in number 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 by requisition of Members, is dissolved; and
 - 8.5.2.2 in any other case, subject to 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 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 or, failing him or her, 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 In the event of a tied vote the chairperson of the Members Meeting has a second or casting vote in addition to their 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 in number at that meeting.

8.7.2 Each Ordinary Member and Honorary Member has one vote, with the exception of a second or casting vote contemplated in 8.6.2.

8.7.3 In the event of voting by a show of hands a declaration by the person presiding at the meeting that 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 event of voting by Secret Ballot, the person presiding shall be assisted by two Members present at the meeting to collect and count the ballot papers and the provisions of 8.7.3 shall apply *mutatis mutandis*.

- 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 Code of Conduct and Ethics Policy and adhere to the principles contained therein;
- 8.8.2 Members shall behave in a professional, 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 Members 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 Members 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 in number of Members present in person or by proxy at a Members Meeting ("**Ordinary Resolution**"); or

- 8.9.1.2 a resolution that shall be adopted by 75 percent in number of Members present in person or by proxy 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; and
 - 8.9.3.2 at which meeting the proposed resolution shall be expressed with sufficient clarity and detail 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 adopted, it may not be challenged or disputed because it did not comply with the above.
- 8.9.4 An Ordinary 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 to approve the annual financial statements of the Chamber at the AGM;
 - 8.9.4.5 to appoint the auditors for the upcoming Chamber Term at the AGM.
- 8.9.5 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.
- 8.9.6 A Special Resolution is required to approve and implement the following:
 - 8.9.6.1 to change this Constitution;
 - 8.9.6.2 to approve the voluntary winding up of the Chamber;
 - 8.9.6.3 to authorise, as contemplated in the Companies Act, the Chamber being party to any fundamental transaction such as

- mergers and acquisitions;
- 8.9.6.4 to change the legal nature of the Chamber, or merger or amalgamation of the Chamber and any other entity;
- 8.9.6.5 any act that changes the core objectives of the Chamber as contemplated in 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 Composition and Functions

Executive shall consist of a CEO who will manage an agreed number of employees, including, but not limited to, persons managing functions such as finance, marketing, membership, events and Chapter Secretariats.

9.3 Budgets

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

9.4 Performance Management

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

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

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

9.5 **Remuneration Structure and Processes**

9.5.1 The Executives' salaries represent 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.

9.5.2 The CEO will appraise staff performance annually and make recommendations for salary adjustments to, if in existence, the Remuneration Committee, alternatively to the Board, 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 and Investment Committee for inclusion in its budgeting process before presentation to the Board for final budget approval.

9.6 **Policies and Procedures**

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

9.6.2 The CEO will determine, write and propose to the Board, the Procedures appropriate for transacting all Board Policy decisions and resolutions that are made or adopted 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 the last day of June in the next year.

10.2. Accounting Records and 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 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 requests a copy of the statements, the Chamber shall make the statements available to the Member at a cost determined by the Board or Exco from time to time.

10.3. Appointment of Auditor

- 10.3.1 Ordinary Members appoint and remove the Auditor at the AGM by Ordinary Resolution.
- 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 ITA and such other tax exemptions as the Commissioner 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 Objectives.
- 10.4.5 The Chamber shall use substantially the whole of its funds for the Objectives.
- 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 Objectives 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.
- 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 section 103(5) of the ITA.

11 DISPUTES

- 11.1.1 If any dispute arises between any persons bound by this Constitution, including any dispute or difference arising from –
 - 11.1.1.2 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;
 - 11.1.1.3 any relationship between any two or more Members in whatever capacity;
 - 11.1.1.4 any relationship between any Member and the Chamber; and
 - 11.1.1.5 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, have potentially adverse consequences for the Chamber and subject to 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 or the Arbitration Foundation of South Africa;
- IV. as an alternative and in circumstances which 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 or the Arbitration Foundation of South Africa;.

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, and shall be either a person from within the Chamber's ranks or an outside professional, depending on the nature, complexity and consequences of the dispute, in the Board's discretion.
- 11.2.2 If the matter is not resolved it is referred to Informal Arbitration as contemplated in 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 Western Cape Legal Practice Council or the Arbitration Foundation of South Africa.
- 11.3.3 The arbitrator shall be entitled to consult such persons as they 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 they consider necessary or desirable in connection with any matter referred to them 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 them or by their 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 them for the aforesaid purpose and shall have the right to interview and question under oath any affected party or their directors, officers, employees or agents and/or to call for written submissions by any affected party and/or their directors, officers, employees or agents.
- 11.3.4 The arbitrator shall not be bound to follow strict principles of law, but may decide the matters submitted to them according to what they consider just and equitable in the circumstances, and, therefore, the strict rules of civil procedure and evidence need not be observed or be taken into account by them in arriving at their decision.
- 11.3.5 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 they in their discretion may deem fit and appropriate.
- 11.3.6 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 11.4.

11.4 Arbitration

- 11.4.1 The arbitration shall be held in Cape Town, in English.
- 11.4.2 Any arbitrator deemed acceptable by the disputing parties, shall administer the arbitration.
- 11.4.3 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.
- 11.4.4 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.
- 11.4.5 Despite this clause, a party may apply to court for urgent relief, or for judgment for a liquidated claim.
- 11.4.6 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.
- 11.4.7 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.

11.5 Vote of No Confidence

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.

12 GENERAL

12.1 Remuneration of Office Holders and Official Chamber Positions

Save for the CEO 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 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 in a matter to be considered at a Meeting, or knows that a person related to the Member has such an interest in the matter, the Member –

12.2.2.1 shall disclose details of that interest, known to the Member, before the matter is considered at the Meeting;

12.2.2.2 may disclose any observations or pertinent insights about the matter if asked to do so by the Board Members;

12.2.2.3 if present at the meeting, shall leave the Meeting immediately after making the disclosure;

12.2.2.4 may not take part in the consideration of the matter, except to make the disclosure;

12.2.2.5 while absent from the meeting, is deemed to be –

12.2.2.5.1 present at the Meeting to determine whether there is a quorum or not; and

12.2.2.5.2 absent from the meeting to determine whether a resolution has sufficient support to be adopted;

and

12.2.2.6 may not sign any document for the Chamber about the matter unless the Board specifically directs them to do so.

12.2.3 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.

12.2.4 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 –

12.2.4.1 it was approved following the disclosure of the personal financial interest in the way set out above; or

12.2.4.2 despite having been approved without disclosure of that interest, it has been ratified by an Ordinary Resolution following the disclosure of the interest.

12.2.5 A Member may not use the position of Board, Council or Committee Member, or any information obtained while a member of such –

12.2.5.1 to gain an advantage for the Member, or for another person other than the Chamber or a wholly-owned subsidiary of the Chamber; or

12.2.5.2 to knowingly cause harm to the Chamber or a subsidiary of the Chamber.

12.2.6 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) they may not disclose that information under a legal or ethical obligation of confidentiality.

12.2.7 A Board, Council or Committee Member, when acting in that capacity, shall exercise the powers, and perform the functions of a Board, Council or Committee Member –

12.2.7.1 in good faith and for a proper purpose;

12.2.7.2 in the best interests of the Chamber; and

12.2.7.3 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.

12.2.8 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 will have met their obligations if they –

12.2.8.1 had taken reasonably diligent steps to become informed about the matter;

12.2.8.2 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
 - 12.2.8.3 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;
- 12.2.9 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;
- 12.2.10 may rely on –
 - 12.2.10.1 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
 - 12.2.10.2 the particular expertise of a Board Committee of which they are 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 in relation to the matter.
- 12.3.2 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 activities in relation to which any such conflict of interest or financial gain may arise.

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 their 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 performed by them in good faith and for a proper purpose in the best interest of the Chamber 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 Member, Board Member, office bearer or appointed delegate 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 their office, unless the loss, damage or expense is caused by their

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 take out 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 which 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 their 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 12.6.6 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 they become a Board Member and (ii) endures even after they stop being a Board Member until they 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 may 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 12.6.10 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 in respect of 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 their 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.

12.6.11.3.3 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 12.6 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 and 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 by registered post in a prepaid letter addressed to the person at their recorded address or failing that, their 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 them.
- 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.
- 12.8.4 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, references, grammar or similar defects.
- 12.9.2 Save for the provisions of 12.9.1, and as provided in 8.9.6.1, this Constitution may only be changed by Special Resolution; provided that the meeting is attended by at least 10 percent in number 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 ITA; that failing
 - 13.1.2 a public benefit organisation approved in terms of section 30 of the ITA; that failing
 - 13.1.3 an institution, board or body which is exempt from tax under section 10(1)(cA)(i) of the ITA; 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

Addendum 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:

	<u>In favour of</u>	<u>Against</u>	<u>Abstain</u>
Special Resolution 1			
Ordinary Resolution 1			

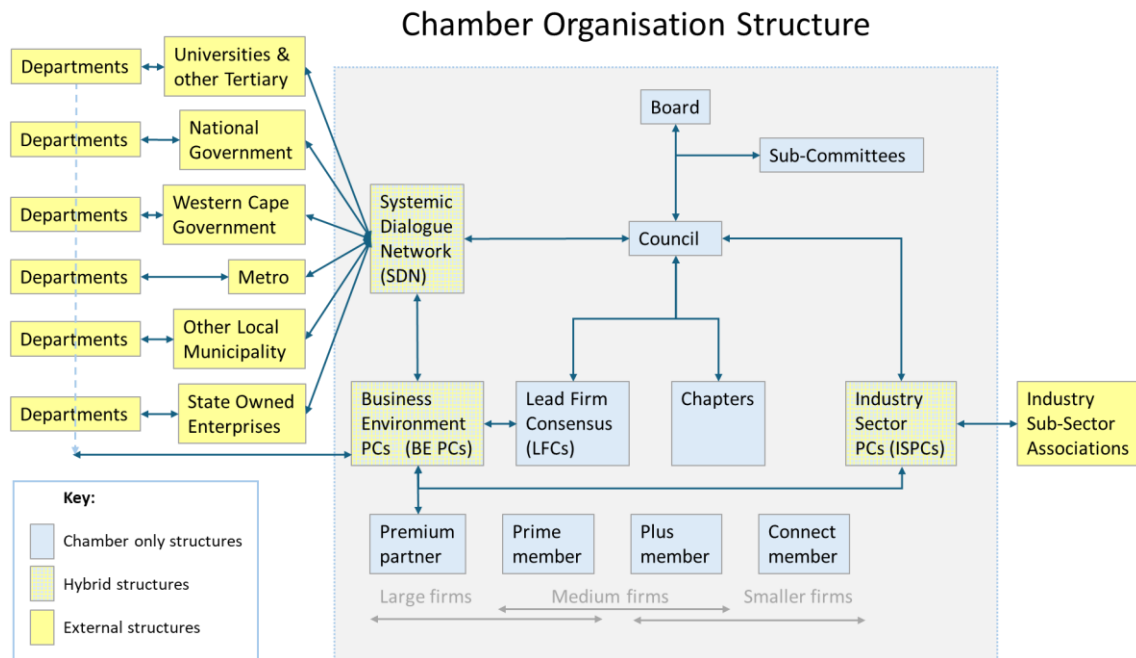
(Indicate instruction to proxy by way of a cross in space provided above.)

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 and promote the objectives 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 act in 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 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: _____

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.

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.

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- **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