

**CONSTITUTION OF A VOLUNTARY ASSOCIATION ESTABLISHED UNDER THE NAME AND STYLE OF THE
HERMANUS ANIMAL WELFARE SOCIETY (“HAWS”)**

TABLE OF CONTENTS

1.	BACKGROUND.....	1
2.	NAME.....	1
3.	OBJECTS.....	1
4.	LEGAL STATUS	2
5.	NON-PROFIT DISTRIBUTING CHARACTER	2
6.	POWERS.....	3
7.	MEMBERS	3
8.	STRUCTURE OF THE ASSOCIATION	5
9.	FINANCIAL MATTERS.....	13
10.	AMENDMENTS TO THE CONSTITUTION AND DISSOLUTION	15
11.	INDEMNITY	15
12.	DISPUTES	15
	SCHEDULE A – TAX CONSIDERATIONS.....	17
	SCHEDULE B - GENERAL ADMINISTRATIVE AND INVESTMENT POWERS	21
	SCHEDULE C – SCHEDULE OF INITIAL MEMBERS	22
	SCHEDULE D - CODE OF CONDUCT	Error! Bookmark not defined.

1. BACKGROUND

- 1.1. Like-minded individuals based in Hermanus, Western Cape, sought to establish, by voluntary agreement, an association for the benefit of animals and the promotion of animal rights throughout the Overberg region, under the name and style of 'The Hermanus Animal Welfare Society' (hereinafter referred to as the “**Association**”).
- 1.2. Since establishment of the Association the members have sought and attained the necessary approvals and ensured compliance for purposes of operating as a registered public benefit organisation.
- 1.3. Accordingly, the members have reviewed and amended the Association’s constitution to align with legislative and tax provisions prescribed by law, and to comply with the operational requirements of a Public Benefit Organisation.
- 1.4. The terms and provisions that follow serve to record the governing provisions of the Association.

2. NAME

- 2.1. The name of the Association is “The Hermanus Animal Welfare Society”.

3. OBJECTS

- 3.1. The Association is a public, non-profit organisation established solely for the following objects:
 - 3.1.1. To prevent cruelty to and the suffering of animals and to provide a safe shelter for neglected, unwanted or abused animals.
 - 3.1.2. To create a community in which there is no cruelty to and suffering of animals by educating the community in the humane treatment and responsible ownership of animals.
 - 3.1.3. To stop the perpetuation of unwanted animals by maintaining a sustained spaying/neutering program.
 - 3.1.4. To help the sick and injured animals of the poorer communities by providing affordable treatment options.
 - 3.1.5. To establish such separate committees as may be necessary to fulfil the objectives of the Association.

- 3.1.6. To affiliate or join with other non-profit organisations that have the same or similar objectives and are compliant with applicable laws, including the Non-Profit Organisations Act, 1997.
- 3.1.7. To implement all or any of the above objects by any lawful means.

4. LEGAL STATUS

- 4.1. The Association is a body corporate with its own legal identity, which is separate from its individual members.
- 4.2. The Association shall continue to exist even if the members change.
- 4.3. The Association may own property, enter into contracts, and initiate or defend legal proceedings in its own name.

5. NON-PROFIT DISTRIBUTING CHARACTER

- 5.1. The income and property of the Association shall be used solely for the promotion of its stated objects.
- 5.2. Should the services of a fund-raiser be engaged for the collection of contributions, the remuneration and/or commission payable shall be determined by the Managing Committee (**"the Committee"**). In doing so, the Committee shall ensure that such expenses are reasonable and generally do not exceed thirty percent (30%) of the total contributions collected, except in exceptional circumstances duly approved by the Committee.
- 5.3. Neither the members nor the office-bearers shall have any proprietary rights in the Association's property or assets solely by reason of their membership or office.
- 5.4. No portion of the income or property of the Association shall be distributed—directly or indirectly—to any person (except in the ordinary course of undertaking public benefit activities) or to any member or office-bearer, except as follows:
 - 5.4.1. reasonable compensation for services actually rendered to the Association.
 - 5.4.2. reimbursement of actual costs or expenses reasonably incurred on behalf of the Association.
 - 5.4.3. Upon dissolution, and after settlement of all debts and commitments, any remaining assets shall be transferred to another public benefit organisation approved in terms of Section 30 of the Income Tax Act, or an exempt institution under Section 10(1)(cA).

- 5.4.4. The Association hereby nominates Cape of Good Hope SPCA, PBO Number 930004317, for purposes of clause 5.4.3 above, it being understood that nothing shall preclude the Committee from nominating some other approved public benefit organisation envisaged in clause 5.4.3 in writing.
- 5.5. Notwithstanding clause 5.4 above, no committee member shall be entitled to any remuneration for their services on the Committee, nor shall they be allowed to benefit financially in any way from the activities of the Association.
- 5.6. The Association has applied to the Commissioner of the South African Revenue Service for exemption from appropriate taxes and duties, which has subsequently been granted.
- 5.7. In compliance with the provisions of the Income Tax Act, the provisions set out in the attached **Schedule A** shall bind the Association and qualify this Constitution.

6. POWERS

- 6.1. The Association, acting through its Management Committee or at a General Meeting, shall have all the powers necessary to carry out its stated objects effectively. Such powers include, but are not limited to, the General Investment and Administrative Powers set out in the attached Schedule B.

7. MEMBERS

- 7.1. The current membership shall be those persons whose names and signatures appear on the attached **Schedule C**.
- 7.2. The Management Committee (see Clause 8 below) may admit additional members from time to time, subject to:
- 7.2.1. Compliance with any conditions of membership (including payment of annual membership fees, required hours of participation, effort, and/or contributions) as stipulated by the Management Committee; and
- 7.2.2. The following membership termination provisions:
- 7.2.2.1. A minimum of fourteen (14) days' prior written notice shall be provided to all Management Committee members of the intention to terminate a membership; and
- 7.2.2.2. At least fourteen (14) days' prior written notice must be given to the member concerned, inviting the member to submit written or verbal representations.

- 7.2.2.3. The Management Committee may provide written reasons for any termination of membership upon request when based on misconduct or behaviour contrary to the Association's objects.
- 7.2.2.4. Notwithstanding the above, neither the Management Committee nor the Association shall be required to provide reasons for their decisions; however, any conduct harmful to the Association or contrary to its spirit shall be deemed sufficient for suspension, termination, or rejection of membership or Committee status.
- 7.2.2.5. Any member whose membership is suspended or terminated may submit a written appeal to the Management Committee within fourteen (14) days. The Committee shall review the appeal and provide a decision within thirty (30) days, which shall be final.
- 7.2.3. Application Process
 - 7.2.3.1. Applications for prospective members shall be open indefinitely.
 - 7.2.3.2. Any prospective member shall submit a completed application form (if required) and any other documentation that the Management Committee deems necessary.
 - 7.2.3.3. Any prospective member submitting such application shall be required to make payment of any membership or application fees within thirty (30) days of submission of the application.
 - 7.2.3.4. Each application shall be subject to the approval of the Management Committee per clause 7.2.5 below.
 - 7.2.3.5. Where the Management Committee deems it necessary, the Management Committee shall, at least seven (7) days before its next scheduled meeting, circulate the membership application to existing members by email or another agreed medium for any comments or objections.
- 7.2.4. Presentation (Optional)
 - 7.2.4.1. The Management Committee may invite the prospective member to make a brief presentation before the Committee or at a General Meeting, highlighting the applicant's background, interest in animal welfare, and the nature of their proposed involvement.

7.2.5. Decision and Notification

7.2.5.1. The Management Committee shall vote on the application. A simple majority is sufficient for approval, unless the Committee decides a higher threshold is required by resolution.

7.2.5.2. The Secretary shall notify the applicant in writing of the Committee's decision within seven (7) days of the vote.

7.3. Enhanced Suspension or Expulsion Procedure

7.3.1. Grounds for Termination

7.3.1.1. The Management Committee may expel or suspend any member who is, in its opinion, guilty of conduct prejudicial to the objectives, reputation, or interests of the Association.

7.3.2. Notice and Hearing

7.3.2.1. Prior to any resolution to expel or suspend a member, the Committee shall provide written notice to the member, stating the grounds of the proposed expulsion or suspension.

7.3.2.2. The member shall have the right to submit a written explanation or appear before the Committee to show cause why they should not be suspended or expelled.

7.3.3. Ratification

7.3.3.1. Should the Committee vote by at least two-thirds (2/3) to expel or suspend the member, such decision shall take immediate effect, unless overturned at the subsequent General Meeting by a simple majority of the members present.

8. STRUCTURE OF THE ASSOCIATION

8.1. The Management Committee

8.1.1. Powers

8.1.1.1. The affairs of the Association shall be controlled and managed by the Management Committee, which is authorised to exercise all powers set out in Clause 6 (read with Schedule B), subject to this Constitution and any resolutions passed at General Meetings.

- 8.1.1.2. At a General Meeting, the Association may review, approve, or amend any decision taken by the Committee; however, no such resolution shall invalidate any prior action taken in good faith in accordance with this Constitution.

8.1.2. Composition

- 8.1.2.1. The Committee shall consist of at least five (5) but no more than eleven (11) members.

- 8.1.2.2. The Committee must include the following office-bearers:

- 8.1.2.2.1. Chairperson;

- 8.1.2.2.2. Vice-Chairperson;

- 8.1.2.2.3. Treasurer; and

- 8.1.2.2.4. Secretary.

Additional members (with or without specific portfolios) may be elected at the Annual General Meeting (“AGM”) or co-opted as provided in this Constitution.

- 8.1.2.3. The Committee may co-opt up to four (4) additional non-voting members if special skills or expertise are needed. Such co-opted members need not meet the full membership criteria but shall serve for a period determined by the Committee.

8.1.3. Eligibility for Election

- 8.1.3.1. General Eligibility:

- 8.1.3.1.1. A candidate for Committee membership must be a paid-up HAWS member for at least one (1) year (or as otherwise prescribed by the Committee); and

- 8.1.3.1.2. The candidate must have demonstrated active involvement and commitment to the Association (e.g., through volunteering, facility visits, or other contributions) beyond mere attendance at monthly meetings.

- 8.1.3.2. Chairperson Eligibility:

- 8.1.3.2.1. A candidate must have served on the Committee (or been actively involved at the facility) for at least one (1) year and demonstrated substantial engagement with the Association’s operations before standing as Chairperson.

8.1.3.3. Treasurer Qualifications:

- 8.1.3.3.1. The Treasurer must be a Chartered Accountant (CA) or hold an equivalent professional qualification in finance.

8.1.3.4. Further Criteria:

- 8.1.3.4.1. The Committee may establish additional guidelines regarding the minimum time, effort, or involvement required from prospective Committee members to ensure a thorough understanding of HAWS's operations.

8.1.4. Election and Term of Office

8.1.4.1. Election:

- 8.1.4.1.1. Committee members shall be elected at the AGM by members entitled to vote.
- 8.1.4.1.2. Each office-bearer (Chairperson, Vice-Chairperson, Treasurer, Secretary) shall be elected by a simple majority vote either immediately after the AGM (see Clause 8.1.5) or as otherwise determined by the Association.

8.1.4.2. Term:

- 8.1.4.2.1. Committee members hold office until the next AGM, unless they resign or are removed earlier in accordance with this Constitution.
- 8.1.4.2.2. To maintain continuity while allowing renewal, the three longest-serving members of each relevant year who had not been required to step down the previous year will be required to step down. Nothing shall preclude a member so required to step down from re-election, provided that where such member is nominated and re-elected, such member will not be eligible to step down in the following year, and will be eligible to serve for two years post stepping down.

8.1.4.3. Handover:

- 8.1.4.3.1. Where an office-bearer portfolio (e.g., Chairperson, Treasurer) changes hands, there shall be a one-month handover period to

ensure a smooth transition, during which the outgoing office-bearer shall provide relevant files, information, and support to the incoming office-bearer.

8.1.5. First Committee Meeting After AGM

8.1.5.1. Immediate Meeting:

8.1.5.1.1. The newly elected Committee shall convene immediately after the AGM (or as soon as practicable on the same day) to elect or confirm the Chairperson, Vice-Chairperson, Treasurer, Secretary, and any other portfolios.

8.1.5.1.2. This ensures that the Association is not left without leadership and that new members can promptly familiarise themselves with their roles and responsibilities.

8.1.5.2. Portfolio Allocation:

8.1.5.2.1. The Committee may allocate additional portfolios (e.g., fundraising, public relations) at this meeting or at any subsequent meeting as needed.

8.1.6. Vacation of Office

8.1.6.1. A Committee member shall cease to hold office if they:

8.1.6.1.1. Resign in writing;

8.1.6.1.2. Are declared unfit or incapable of performing their duties;

8.1.6.1.3. Fail to attend three (3) consecutive Committee meetings without obtaining prior leave of absence;

8.1.6.1.4. Are disqualified under applicable law (e.g., Companies Act, 2008) from serving as a director; or

8.1.6.1.5. Are removed from office by a resolution passed by at least two-thirds (2/3) of the Committee, subject to ratification at the next General Meeting, if appropriate.

8.1.6.2. Leave of Absence:

8.1.6.2.1. The Committee may grant leave of absence to a member upon good cause, which must be recorded in the minutes.

8.1.7. Filling of Vacancies

- 8.1.7.1. If a vacancy arises, the Committee may, by a resolution adopted by at least two-thirds (2/3) of its remaining members, co-opt a suitable candidate to fill the vacancy until the next General Meeting.
 - 8.1.7.2. The appointment of a co-opted member lapses unless confirmed by a resolution at the next General Meeting.
- 8.1.8. Procedure at Management Committee Meetings
 - 8.1.8.1. Frequency & Notice:
 - 8.1.8.1.1. The Chairperson (or, in their absence, the Vice-Chairperson) shall convene Committee meetings as necessary, ensuring that at least one meeting is held quarterly or upon the written request of any two (2) Committee members.
 - 8.1.8.2. Quorum:
 - 8.1.8.2.1. A majority (50% + 1) of the total Committee membership shall constitute a quorum.
 - 8.1.8.3. Decision-Making:
 - 8.1.8.3.1. Each Committee member shall have one (1) vote. Resolutions shall be passed by a majority vote; in the event of a tie, the Chairperson shall cast the deciding vote.
 - 8.1.8.4. Minutes:
 - 8.1.8.4.1. Proper minutes, including the names of attendees, decisions taken, and vote tallies (where applicable), shall be maintained. Minutes shall be signed by the Chairperson (or acting Chair) and made available for inspection by any member upon at least one (1) day's written notice to the Secretary.
- 8.1.9. Code of Conduct
 - 8.1.9.1. All elected or co-opted Management Committee members shall sign a Code of Conduct (attached as Schedule D) at the start of their term or upon co-option, affirming their commitment to ethical and transparent governance.
 - 8.1.9.2. The Code of Conduct shall set out standards of integrity, confidentiality, conflict of interest, and accountability required of all Committee members.

- 8.1.9.3. Breach of the Code of Conduct, once investigated by the Committee, may result in appropriate disciplinary action, including suspension or expulsion from the Committee in accordance with Clause 8.1.6 (Vacation of Office).

8.2. The Executive Committee (EXCO)

8.2.1. Composition:

8.2.1.1. The EXCO comprises the following members:

- 8.2.1.1.1. Chairperson;
- 8.2.1.1.2. Vice-Chairperson;
- 8.2.1.1.3. Treasurer; and
- 8.2.1.1.4. One (1) additional Committee member (which may be the Secretary) elected by the Committee.

8.2.2. Roles and Responsibilities:

- 8.2.2.1. The EXCO shall oversee the day-to-day operations of the Association between full Committee meetings.
- 8.2.2.2. It shall ensure the timely implementation of Committee resolutions and assist the Chairperson and Treasurer with urgent financial and administrative duties.
- 8.2.2.3. The EXCO shall report all decisions and urgent actions to the full Committee for ratification at the subsequent meeting.

8.2.3. Delegated Authority:

- 8.2.3.1. The EXCO may exercise any powers delegated by the Committee for operational efficiency; however, the full Committee retains ultimate authority over the Association's affairs.

8.2.4. Meetings:

- 8.2.4.1. The EXCO shall meet as frequently as necessary and may regulate its proceedings, provided that all decisions are properly minuted and ratified at the next full Committee meeting.

8.2.5. Additional Sub-Committees

8.2.5.1. Formation

- 8.2.5.1.1. The Management Committee may appoint additional sub-committees to address specific tasks (e.g., fundraising, education, legal affairs).

- 8.2.5.1.2. Each sub-committee shall include at least one (1) serving member of the Management Committee and may include volunteers or other experts.
 - 8.2.5.2. Mandate and Reporting
 - 8.2.5.2.1. The Management Committee shall determine each sub-committee's scope, functions, and duration.
 - 8.2.5.2.2. Sub-committees shall keep minutes of their meetings and report regularly to the Management Committee.
 - 8.2.5.3. Advisory Participants
 - 8.2.5.3.1. The Management Committee may invite external advisors or specialists to serve on a sub-committee without conferring voting rights on the Management Committee.
- 8.3. General and Special Meetings
 - 8.3.1. Annual General Meeting (AGM):
 - 8.3.1.1. An AGM shall be held within three (3) months after the completion and signoff of the Annual Financial Statements. The AGM shall include the presentation of the Chairperson's report, consideration of the Annual Financial Statements, election of Committee members, appointment of auditors, and other matters deemed appropriate.
 - 8.3.1.2. A quorum for purposes of the AGM shall be a majority of 25% plus 1 of the members.
 - 8.3.1.3. Immediately following the AGM, the newly elected Committee shall convene its first meeting in accordance with Clause 8.1.5.
 - 8.3.2. Other General or Special Meetings:
 - 8.3.2.1. Other General or Special Meetings may be convened by the Chairperson or upon the written request of not less than one-quarter (1/4) of the members.
 - 8.3.2.2. Notice:
 - 8.3.2.2.1. At least fourteen (14) days' written notice must be given to members, specifying the date, time, venue (or online platform), and the business to be transacted.

8.3.2.3. Quorum:

8.3.2.3.1. A majority of 25% plus 1 of the members shall constitute a quorum.

8.3.2.3.2. If a quorum is not present within thirty (30) minutes of the scheduled start time, the meeting shall stand adjourned to the same day, time and place in the following week (or to such other date/time/place as the Chairperson may determine within fourteen (14) days). At the adjourned meeting the members then present shall constitute a quorum.

8.3.2.4. Voting:

8.3.2.4.1. Unless this Constitution prescribes a higher threshold (including Clause 10), resolutions shall be adopted by a simple majority of members present and voting. In the event of an equality of votes, the Chairperson shall have a casting vote.

8.3.2.5. Minutes:

8.3.2.5.1. The Secretary shall keep proper minutes of the proceedings and resolutions, which shall be made available to members on reasonable notice.

8.3.3. Adoption of Amendments:

8.3.3.1. Amendments to this Constitution may be approved at a properly convened General Meeting where the required quorum and voting thresholds are met.

8.3.3.2. Should the Association wish to adopt a revised Constitution at the next AGM, sufficient notice must be provided to members in accordance with this Constitution.

8.4. Proxy voting:

8.4.1. Appointment:

8.4.1.1. Any member entitled to vote at a General Meeting may appoint one (1) proxy to vote on their behalf.

8.4.1.2. A proxy form (supplied by the Secretary) must be completed and signed by the member who wishes to appoint such proxy ("appointing member").

8.4.2. Lodgement of proxy:

8.4.2.1. The appointed proxy form must be delivered to the Secretary at least forty-eight (48) hours before the meeting for the appointment to be considered valid.

8.4.3. Authority and validity:

8.4.3.1. The proxy may vote or abstain as they see fit, unless otherwise directed in writing by the appointing member.

8.4.3.2. The proxy's authority shall extend to all matters properly raised at the meeting for which the proxy was appointed.

8.5. Membership Review

8.5.1. The Association recognises that merely paying a membership fee does not, in itself, confer eligibility for leadership roles.

8.5.2. The Committee may from time to time set additional requirements for membership or for standing for Committee election, including minimum volunteer hours, financial contributions, or direct involvement in HAWS activities, to ensure that those aspiring to govern the Association possess a genuine understanding of its mission and operations.

9. FINANCIAL MATTERS

9.1. Bank Account

9.1.1. The Management Committee shall open a bank account in the name of the Association with a registered bank.

9.1.2. All monies received by the Association shall be deposited into the designated bank account promptly.

9.2. Signatures

9.2.1. All cheques, promissory notes, and other documents requiring signature on behalf of the Association shall be signed by two (2) members of the Management Committee.

9.3. Financial Year End

9.3.1. The Association's financial year end shall be the 31st of March of each consecutive year, the start of the financial year accordingly falling on the 1st of April of each relevant year.

9.4. Financial Records

9.4.1. The Management Committee shall maintain proper records and books of account that fairly reflect the affairs of the Association.

9.5. Annual Narrative Report and Financial Statements

- 9.5.1. The Management Committee shall ensure that the Association prepares an annual narrative report detailing its activities and an Annual Financial Statement for each financial year. These statements shall conform to generally accepted accounting principles and include a statement of income and expenditure and a balance sheet of assets and liabilities.
- 9.5.2. Within two (2) months after the preparation of the Annual Financial Statements, the Management Committee shall arrange for an accounting officer to certify that the statements are consistent with the Association's financial records and that its accounting policies have been appropriately applied, or alternatively, have the books audited and certified in the customary manner by an independent practising chartered accountant.
- 9.5.3. The Management Committee shall ensure that the financial records are subject to an independent review or audit as required by SARS and the Non-Profit Organisations Act, 1997.
- 9.5.4. A copy of the Annual Financial Statements and the narrative report shall be made available to all members as soon as practicable after the close of the financial year.

9.6. Expenditure Approvals

- 9.6.1. The Management Committee (and EXCO, if delegated) may approve routine operational expenditure in accordance with the thresholds set out in this clause.
- 9.6.2. Splitting a single transaction into multiple payments to avoid the thresholds below is prohibited.
- 9.6.3. All approvals taken under this clause must be minuted and supported by appropriate documentation.
- 9.6.4. Emergency expenditure. In bona fide emergencies (for example, urgent veterinary care or essential facility repairs) where immediate payment is required to protect animal welfare or Association property, the EXCO may authorise expenditure that would otherwise exceed its limit under 9.6.5.1. Any such authorisation must be notified to the Chairperson within 24 hours and tabled for ratification at the next Management Committee meeting.
- 9.6.5. Approval thresholds

9.6.5.1. EXCO authority up to R50,000. The EXCO may approve expenditure up to R50,000 (fifty thousand rand) per item. The EXCO must inform the full Management Committee by tabling a schedule of such approvals at the next Management Committee meeting.

9.6.5.2. Management Committee authority over R50,000. Any single expenditure exceeding R50,000 (fifty thousand rand) must be approved in advance by a simple majority of Management Committee members present and voting at a duly convened Management Committee meeting. Approval by members at a General Meeting is not required for such expenditure.

10. AMENDMENTS TO THE CONSTITUTION AND DISSOLUTION

10.1. The Constitution may be amended, the name of the Association changed, or the Association dissolved by a resolution of sixty-six per cent (66%) of the members present at a General Meeting, provided that proper notice of the meeting is given at least twenty-eight (28) days in advance and such notice specifies the nature of the resolution proposed.

11. INDEMNITY

11.1. Subject to any relevant statute, members of the Management Committee and other office-bearers shall be indemnified by the Association for acts performed in good faith on its behalf. The Association shall pay all costs and expenses incurred or that become payable as a result of any contract entered into or act performed by such persons in the discharge of their duties.

11.2. Subject to any relevant statute, no member of the Management Committee or any other office-bearer shall be liable for the acts, omissions, or defaults of any other member or office-bearer, or for any loss, damage, or expense incurred by the Association in the execution of their duties, unless such liability arises from dishonesty or a failure to exercise the degree of care, diligence, and skill required by law.

12. DISPUTES

12.1. In the event of a serious disagreement regarding the interpretation of this Constitution, any two (2) Management Committee members or any five (5) members of the Association may declare a dispute in writing, stating the issue and addressing it to the Management Committee.

- 12.2. The Management Committee shall consider such a declaration within two (2) weeks of receipt. If the dispute is not resolved to the satisfaction of the complainants, it shall be referred to either mediation or arbitration.
- 12.3. If referred to mediation, the complainants and the Management Committee must agree on a suitable mediator and share the costs; the mediator may recommend a resolution.
- 12.4. If mediation fails or no mediator is agreed upon, the dispute shall be referred to arbitration. The arbitrator shall be a suitably qualified person agreed upon by the parties, or in the absence of agreement, each party shall nominate one arbitrator, who together with a third arbitrator chosen jointly shall decide by a majority vote.
- 12.5. If the parties cannot agree on an arbitrator, one shall be appointed by the Chairperson of the Arbitration Foundation of Southern Africa (AFSA).
- 12.6. Arbitration shall be conducted on an informal basis, with the arbitrator having the authority to determine the procedure in accordance with principles of natural justice.
- 12.7. The arbitrator's award may be based on applicable law as well as principles of equity and fairness.
- 12.8. The parties may agree in advance to share the costs of arbitration; in the absence of such an agreement, the arbitrator shall determine cost allocation.
- 12.9. The arbitrator's decision shall be final and binding on all parties and may be enforced as an Order of Court.

SCHEDULE A – TAX CONSIDERATIONS

REQUIREMENTS OF THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE FOR EXEMPTION FROM TAXES AND DUTIES

As provided for in Clause 5.6 of this Constitution, the Association is approved by the Commissioner for the South African Revenue Service as a Public Benefit Organisation (PBO) and is exempt from the applicable taxes and duties. To retain this approval, the following provisions shall bind the Association:

1. In the case of a Public Benefit Organisation (hereafter “PBO”) seeking an exemption from income and other related taxes only, in terms of section 10(1)(cN) of the Income Tax Act, as amended:
 - 1.1. Carry out all its public benefit activities in accordance with section 30 of the Income Tax Act; or
 - 1.2. In the case of a PBO seeking a section 10(1)(cN) exemption from income and other related taxes and donor deductible status in terms of sections 10(1)(cN) and 18A, respectively, of the Income Tax Act, as amended:
 - 1.3. Carry on its public benefit activities in the Republic.
2. Only in the case of a PBO which provides funds solely to any income tax exempt PBO seeking a section 10(1)(cN) exemption from income and other related taxes only and section 18A donor deductible status, as described in section 18A(1)(b) of the Income Tax Act, as amended. During the year of assessment preceding the year of assessment during which the donation is received, distribute or incur the obligation to so distribute at least 75% of the funds received. Provided that the Minister may on good cause shown and subject to such conditions as he or she may determine, either generally or in a particular instance, waive, defer or reduce the obligation to distribute at least 75% of its funds having regard to the public interest and the purpose for which the relevant organisation wishes to accumulate those funds.
3. Carry on its public benefit activities in a non-profit manner.
4. Comply with such conditions, if any, as the Minister may prescribe by way of regulation to ensure that the activities and resources of the organisation are directed in the furtherance of its objects.
5. Submit to the Commissioner a copy of and a copy of any amendment to the Constitution, Will or other written instrument under which it has been established.
6. Be required to have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the organisation and no other single person directly or indirectly controls the decision making powers relating to that organisation: Provided that the

provisions of this sub-paragraph shall not apply in respect of any trust established in terms of a will of any person who died on or before 31 December 2003.

7. In the event of the Association investing funds, invest such funds:
 - 7.1. with a financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990); and/or
 - 7.2. in securities listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985) ; and/or
 - 7.3. in such other prudent investments in financial instruments and assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and the Director of Non-Profit Organisations, provided that the provisions of this sub-paragraph do not prohibit any such organisation from retaining any investment (other than any investment in the form of a business undertaking or trading activity or asset which is used in such business undertaking or trading activity) in the form that it was acquired by way of donation, bequest or inheritance.
8. Be prohibited from carrying on any business undertaking or trading activity, otherwise than to the extent that:
 - 8.1. the gross income derived from such business undertaking or trading activity does not exceed the greater of:
 - 8.1.1. fifteen percent (15%) of the gross receipts of such public benefit organisation; or
 - 8.1.2. two hundred thousand Rand (R200 000,00);
 - 8.2. the undertaking or activity is:
 - 8.2.1. integral and directly related to the sole object of such public benefit organisation; and
 - 8.2.2. carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost, and which would not result in unfair competition in relation to taxable entities;
 - 8.3. the undertaking or activity, if not integral and directly related to the sole object of such public benefit organisation as contemplated in clause 8.2.1, is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation; or
 - 8.4. the undertaking or activity is approved by the Minister by notice in the Gazette, having regard to:

- 8.4.1. the scope and benevolent nature of the undertaking or activity;
 - 8.4.2. the direct connection and interrelationship of the undertaking or activity with the sole purpose of the public benefit organisation;
 - 8.4.3. the profitability of the undertaking or activity; and
 - 8.4.4. the level of economic distortion that may be caused by the tax-exempt status of the public benefit organisation carrying out the undertaking or activity.
9. Be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A; provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on or any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.
10. Ensure that it is not knowingly a party to, and does not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy, which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Act or any other Act administered by the Commissioner.
11. Has not and will not pay any remuneration as defined in the Fourth Schedule, to any employee, office bearer, member or other person, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects.
12. Comply with such reporting requirements as may be determined by the Commissioner.
13. Take reasonable steps to ensure that the funds which it may provide to any association of persons as contemplated in section 30(b)(iii) of the Act are utilised for the purpose for which they are provided.
14. Become registered in terms of section 13(5) of the Non-Profit Organisations Act, 1997 (Act No. 71 of 1997), within such period as the Commissioner may determine, and comply with any other requirements imposed in terms of that Act, unless the Commissioner in consultation with the Director or Nonprofit Organisations designated in terms of Section 8 of the Nonprofit Organisations Act, 1997, on good cause shown, otherwise directs.

15. Has not and will not use its resources directly or indirectly to support, advance or oppose any political party.
16. Ensure that any books of account, records or other documents relating to its affairs are:
 - 16.1. where kept in book form, retained and carefully preserved by any person in control of the organisation, for a period of at least four years after the date of the last entry in any such book; or
 - 16.2. where not kept in book form, are retained and carefully preserved by any person in control of the organisation, for a period of four (4) years after the completion of the transaction, act or operation to which they relate.

SCHEDULE B - GENERAL ADMINISTRATIVE AND INVESTMENT POWERS

The Management Committee is authorised to exercise its powers for the effective and efficient management of the Association. Notwithstanding the enumeration below, the Management Committee may delegate any or all of these powers to an Executive Committee (EXCO) – a sub-committee established in accordance with Clause 8.2 – to ensure rapid decision-making on urgent matters. Such delegation shall be documented in writing and ratified by the full Management Committee at its subsequent meeting. The Management Committee is accordingly authorised;

1. To employ staff and hire professional and other services.
2. To institute or defend any legal or arbitration proceedings and to settle any claims made by or against the Association.
3. To open and operate accounts with registered banks and building societies.
4. To make and vary investments and re-invest the proceeds of such investments on condition that any investments made by the Association shall be with Financial Institutions as defined in Schedule A Clause 7 above.
5. To accept donations made to the Association and retain them in the form in which they are received or sell them and re-invest the proceeds.
6. With regard to movable and immovable property and tangible and intangible assets of whatsoever nature:
 - 6.1. to purchase or acquire property and assets;
 - 6.2. to maintain, manage, develop, exchange, lease, sell, or in any way deal with the property and assets of the Association;
 - 6.3. to donate and transfer the property and assets of the Association to organisations with the same or similar objectives and the same exemptions from taxes and duties to those of the Association.
7. To borrow and to use the property or assets of the Association as security for borrowing;
8. To guarantee the performance of contracts or obligations of any person on condition that any such person is primarily engaged in activities which further the objectives of the Association.
9. To execute any act or deed in any deeds registry, mining titles or other public office.

10. To work in collaboration with other organisations and to amalgamate with any organisation with the same or similar objectives and the same exemptions from taxes and duties to those of the Association.
11. To exercise all the management and executive powers that are normally vested in the Board of Directors of a Company.
12. To exercise all the powers and authority of the Association not only in the Republic of South Africa but in any other part of the world.
13. Delegation to the Executive Committee (EXCO)
 - 13.1. The Management Committee may, at its discretion, delegate any or all of the powers listed in this Schedule B to the EXCO. The EXCO is responsible for handling urgent and day-to-day operational decisions, including but not limited to financial, administrative, and investment matters.
 - 13.2. Any decision or action taken by the EXCO under such delegation shall be reported to the full Management Committee and ratified at its next meeting.

SCHEDULE C – SCHEDULE OF CURRENT MEMBERS

SCHEDULE D - CODE OF CONDUCT

