

# CONSTITUTION OF THE ALBANY SCHOOLS NETWORK

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# CONSTITUTION THE ALBANY SCHOOLS NETWORK

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## Introduction

- A. The computerised information storage and access network known as the Internet has become an extremely valuable educational tool, giving as it does educators and students access to up-to-date information from international sources relating to a vast range of topics and subject matter.
- B. The educational needs of pupils and staff at schools and other educational institutions in the Albany district of the Eastern Cape (hereafter known as "the District") and elsewhere in the District, require that such schools and institutions obtain access to the Internet. However, most such schools and institutions are unable easily to afford the costs associated with appointing commercial concerns to link their computer facilities to the Internet, and to provide the necessary training and technology to enable their teachers and students to utilise the Internet effectively.
- C. Accordingly, a *Universitas* or Voluntary Association known as THE ALBANY SCHOOLS NETWORK ("the Association") has been formed as a non-profit institution for the purpose of facilitating access to and effective use of the Internet by schools and other educational institutions in the Albany district.
- D. In order to enable it more effectively to promote and carry out the purpose referred to above, the Association has resolved to adopt a new written Constitution.

NOW THEREFORE:

## 1. The Association

- 1.1 The Voluntary Association, or *Universitas*, already established under the name of:  
THE ALBANY SCHOOLS NETWORK  
shall henceforth pursue the Object, and conduct its affairs subject to the terms and conditions, set out in this Constitution.
- 1.2 The Association shall continue for an indefinite period, and shall be terminable by the Institutional Members according to the procedure and in the manner set out below.

## 2. Definitions and Interpretation

In this Constitution, unless the context clearly indicates otherwise:

- 2.1 "The Association" means the Voluntary Association or *Universitas* referred to in Clause 1.1.
- 2.2 "The Association Funds" means the capital and accumulated income under administration by the Executive Committee from time to time.
- 2.3 "The Executive Committee" means the natural persons (being

representatives of Institutional Members) nominated and elected as the members of the Executive Body of the Association and the persons nominated and elected as their successors (or as co-opted members) from time to time.

- 2.4 "The Institutional and Private Members" means the Schools and natural persons respectively who are admitted to Membership of the Association in terms of this Constitution.
- 2.5 "The District" means the Albany district of the Eastern Cape..
- 2.6 "School" means :
  - 2.6.1 any primary or secondary school in the District; and
  - 2.6.2 any such other institution or place of learning as the Executive Committee may from time to time in its sole discretion deem to be an appropriate and deserving recipient of the services provided by the Association.
- 2.7 The masculine shall include the feminine, and the singular shall include the plural, and references to persons shall include juristic persons, and vice versa in all cases.
- 2.8 Reference to any statutory provision shall include a reference to that provision as modified, amended, extended or re-enacted from time to time, and any statutory replacement of such provision from time to time.

### **3. Object of the Association**

- 3.1 The Association is established as a charitable and an educational institution of a public character, with the Object of promoting and facilitating the provision to any and all Schools within the District, of effective and inexpensive access to the Internet, and to such other educationally useful computer-related information storage and retrieval networks or systems as may be or become available.
- 3.2 Without in any way limiting the general nature of Clause 3.1 above, the Object of the Association shall include:
  - 3.2.1 providing the necessary skilled persons and computer hardware and software expertise to enable Schools in the District to link up with the Internet;
  - 3.2.2 providing an ongoing advisory and technical service to such Schools to enable them to continue using the Internet to the best advantage of their teachers and students.
- 3.3 The income and property of the Association shall be used solely for the promotion of its stated objectives. No portion of the income or property of the Association shall be paid or distributed directly or indirectly to any person (otherwise than in the ordinary course of undertaking any public benefit activity) or to any member of the Association or Executive Committee, except as:

- 3.3.1 reasonable compensation for services actually rendered to the Association;
- 3.3.2 reimbursement of actual costs or expenses reasonably incurred on behalf of the Association.

#### **4. Association Funds**

- 4.1 The initial funds of the Association shall be :
  - 4.1.1 the amount/s standing to its credit in its bank account/s; and
  - 4.1.2 all other assets, whether movable or immovable, owned by it; at the date of adoption of this Constitution.
- 4.2 The Association Funds may be increased by:
  - 4.2.1 capital accruals and accrued and undistributed income;
  - 4.2.2 such further amounts or assets as may from time to time become payable or transferable to the Association by way of donation, or in any other lawful way.

#### **5. Association Powers**

- 5.1 In order to achieve the Object of the Association, the Executive Committee is hereby vested with a complete and unfettered discretion as to the manner in which it deals with, uses and applies the assets which make up the Association Funds. It is intended that the entire Association Funds as they are constituted from time to time shall be and remain at the disposal of the Executive Committee, to be applied by the Committee as it decides is appropriate for achieving the Object of the Association, subject to the limitations implicit in the Object and subject to the terms and conditions set out in this Constitution.
- 5.2 Therefore, the Executive Committee shall have all those powers and authorities that it requires to administer the Association Funds. Without limiting the general nature of this statement, the Executive Committee shall have the following powers and authorities:
  - 5.2.1 The General Investment and Administrative Powers set out in Schedule "A".
  - 5.2.2 The following Special Powers, which the Executive Committee may exercise in any manner it believes is appropriate, in its sole and absolute discretion:
    - 5.2.2.1 To adopt, ratify and confirm any Agreements entered into by or on behalf of the Association, prior to the adoption of this Constitution.
    - 5.2.2.2 To establish separate Parts of the Association Funds, with distinct objects and purposes, in implementation of the terms of this Constitution; and if deemed appropriate for administrative, fiscal or other reasons, to keep separate books and to account separately in respect of each such Part of the Association

Funds.

- 5.2.2.3 Subject to the provisions of Clause 17.1, to determine whether the name of the Association should be changed, and whether its Object should be amplified, and whether the terms and conditions of this Constitution should be otherwise amended.
- 5.2.2.4 To solicit and accept, at its discretion, additional donations and contributions for the Association; provided that:
  - 5.2.2.4.1 All donations accepted shall be subject to the applicable terms of this Constitution, and shall not:
    - 5.2.2.4.1.1 be unilaterally revocable at the instance of the donor concerned; or
    - 5.2.2.4.1.2 seek to impose conditions on the Association which are inconsistent with the terms of this Constitution.
  - 5.2.2.4.2 If a donation is offered for a specific purpose which cannot be implemented, or which would be in conflict with the Object or the terms of this Constitution, the Executive Committee shall be obliged to refund the donation.
  - 5.2.2.4.3 All donations or contributions collected in foreign countries shall be received in the District.
- 5.2.2.5 To amalgamate with any other Voluntary Association, Trust, Incorporated Association not for Gain, or other body having objects the same as or similar to the Object of the Association; and in implementation of such amalgamation:
  - 5.2.2.5.1 to acquire by donation, purchase or otherwise, all or any part of the property, assets, liabilities and commitments of the other body or bodies;
  - 5.2.2.5.2 to transfer all or any of the property, assets, liabilities and commitments of the Association to any one or more of such bodies.
- 5.2.2.6 The Executive Committee shall be entitled to pay any amount of the Association Funds to another similar Voluntary Association, Trust or other body, on condition that such body undertakes to use these funds in accordance with the Object of the Association, and in a manner approved of by the Executive Committee.
- 5.2.2.7 Generally to do all things which are incidental or conducive to achieving the Object of the Association.

## **6. Association Powers: Limitations and Qualifications**

- 6.1 In compliance with the anticipated requirements of the Commissioner of Inland Revenue, and in order to secure appropriate tax and duty

- exemptions for the Association, the powers of the Association shall be qualified as set out below in Clauses 6.2 to 6.10.
- 6.2 The Association shall not be entitled to acquire immovable property solely for the purpose of letting and obtaining income from it; and the Association shall be precluded from engaging in any business, profit-making scheme involving trading operations, or speculative transactions, except to the extent that they are activities directly connected with, and undertaken in bona fide pursuit of, the Object of the Association. (Such prohibited transactions and business shall include, inter alia, ordinary trading operations in the commercial sense, speculative transactions, so-called dividend stripping activities, as well as the letting of property on a systematic or regular basis.)
- 6.3 The affairs of the Association are to be administered in such a manner as to preclude any donor from deriving monetary or other advantage from money or any other assets paid or transferred to, by or for the benefit of the Association, except to the extent permitted in terms of Clause 6.6 below.
- 6.4 The surplus cash resources of the Association may be invested only :
- 6.4.1 with a Financial Institution as defined in Section 1 of the Financial Institutions (Investment of Funds) Act, No. 39 of 1984; and
- 6.4.2 in securities listed on a licensed Stock Exchange as defined in the Stock Exchanges Control Act, No 1 of 1985.
- 6.5 All money not invested in terms of Clause 6.4 shall be deposited by the Association, immediately it is received, in a suitable account to be opened in the name of the Association, with a registered Bank or other registered Financial Institution.
- 6.6 The capital and income of the Association, from whatever source they derive, shall be used solely for the promotion of its Object; no portion of the capital or income of the Association shall be paid or transferred, directly or indirectly, (whether as salary, dividend, bonus or otherwise) to any person by way of distribution of profit or gains: Provided that:
- 6.6.1 nothing contained in this Constitution shall prevent the payment in good faith to any person of reasonable remuneration for services actually rendered to the Association;
- 6.6.2 nothing contained in this Constitution shall prevent the payment in good faith to any person of an amount representing reimbursement of actual costs, expenses and commitments reasonably incurred on behalf of the Association and with its authority; and
- 6.6.3 no donor, Member or relative of a donor or Member, shall receive any benefit from the Association Funds, except :
- 6.6.3.1 in the circumstances and to the extent envisaged in Clauses 6.6.1 and 6.6.2 above; and/or
- 6.6.3.2 to the extent that such donor, Member or relative may be a teacher or student at, or an employee of, any School.

- 6.7 The Association shall be obliged to appropriate or expend, in furthering its Object, at least 75% of its net income, within a period of Twelve (12) months reckoned from the end of the Financial Year during which such net income accrued, unless the Receiver of Revenue to which the Association submits its annual income tax return gives specific approval for a particular reason or purpose, and subject to the conditions which are then stipulated.
- 6.8 The Association shall not condone or permit the rent-free occupation of any land or buildings owned by it from time to time by any person or body, except by persons or bodies wholly or chiefly engaged in activities which further the Object of the Association.
- 6.9 Upon the winding-up or dissolution of the Association, any assets remaining after the satisfaction of the Association's debts and commitments shall not be paid to or distributed among the Members, but shall be transferred by donation or otherwise to the Government of the Republic in its Department of Education, or to some other Voluntary Association, Trust, Section 21 Company or other institution which the Executive Committee (and failing which, any division of the Supreme Court) considers appropriate and which:
- 6.9.1 has objects inclusive of or similar to the Object of the Association;
  - 6.9.2 is itself exempt from the payment of income tax in terms of the provisions of Section 10(1) of the Income Tax Act; and
  - 6.9.3 is authorised in terms of Section 4(1)(a) of the Fund-raising Act, No. 107 of 1978, to collect contributions from the public.
- 6.10 Any amendment to this Constitution, immediately it is effected in terms of Clause 17.1, shall be notified in writing to the Commissioner for Inland Revenue; and in the event of the Association being a registered Fund-raising Organisation as contemplated by the Fund-raising Act, it shall similarly be notified to the Director of Fund-raising.

## **7. Members**

- 7.1 Membership of the Association shall comprise the following categories:
- 7.1.1 Institutional Membership; and
  - 7.1.2 Private Membership.
- 7.2 The initial Institutional Membership shall comprise those Schools whose names appear on Schedule "B1" to this Constitution.
- 7.3 The initial Private Membership shall comprise those natural persons whose names appear on Schedule "B2" to this Constitution.
- 7.4 All further or other Schools which, at any time after the adoption of this Constitution, wish to become Institutional Members of the Association, shall be admitted as such by the Executive Committee, subject to due compliance with such application formalities and terms and conditions of Membership (including payment of any Membership fees) which the Executive Committee may stipulate from time to time; provided that the Membership of any Institutional Member admitted by the Executive

Committee shall lapse unless confirmed by resolution of the Institutional Members of the Association adopted at the first General Meeting held after such admission.

- 7.5 Further Private Members may be admitted from time to time at the discretion of the Executive Committee, subject to compliance with such terms and conditions of Membership (including payment of any Membership fees) which the Executive Committee may stipulate from time to time; provided that the Membership of any Private Member admitted by the Executive Committee shall lapse unless confirmed by resolution of the Institutional Members of the Association adopted at the first General Meeting held after such admission.
- 7.6 Notwithstanding anything to the contrary contained in this Constitution, Institutional or Private Membership of the Association may be granted, suspended or cancelled at the entire discretion of the Institutional Members of the Association in General Meeting. It is expressly stipulated that no Institutional Member nor the Association may be required to give reasons for, or to justify, their decisions with respect to membership.
- 7.7 No Resolution referred to in Clauses 7.4, 7.5 and 7.6 above concerning the confirming, granting, suspension or cancellation of Membership shall be of force or effect unless adopted by a Two-Thirds (2/3) majority of the Institutional Members present at a duly convened quorate General Meeting.
- 7.8 Private Members shall not be entitled to vote on any issue arising at any General Meeting.
- 7.9 The Executive Committee, in its entire discretion, shall be entitled to direct or stipulate that Institutional Members are entitled to rights, privileges and benefits of Membership which differ from or are more advantageous than those attaching to Private Membership.

## **8. The Executive Committee**

### **8.1 Powers**

- 8.1.1 As appears from Clause 5 above, all executive powers of the Association shall vest in the body to be known as the Executive Committee, which shall be entitled to act on behalf of the Association in all matters effecting the conduct of its affairs, in furtherance of its powers and Object, and subject to the terms of this Constitution.
- 8.1.2 In General Meeting, the Association may review, approve or amend any decision taken by the Executive Committee but no such resolution of the Association shall invalidate any prior action taken by the Executive Committee in accordance with the provisions of this Constitution.

### **8.2 Composition**

- 8.2.1 There shall be an Executive Committee of at least six (6), but not more than nine (9), of whom at least three (3) shall represent a primary or secondary school. The membership of the Executive Committee shall comprise:

- 8.2.1.1 the Chairperson, who shall be the chief executive officer of the Association and the Executive Committee;
- 8.2.1.2 the Vice-Chairperson;
- 8.2.1.3 the Treasurer;
- 8.2.1.4 the Secretary;
- 8.2.1.5 at least two (2) other persons.
- 8.2.2 The Executive Committee may co-opt up to 3 additional non voting members as it may consider appropriate from time to time. The co-opted members shall serve for such period as the Management Committee considers appropriate.

### 8.3 **Election**

The members of the first Executive Committee shall be elected and appointed at the General Meeting at which this Constitution is adopted, and shall hold office until the first Annual General Meeting after such appointment, whereupon all of them shall resign.

- 8.4 At such first Annual General Meeting, a new Executive Committee shall be elected, the intention being that a new Executive Committee be elected at each succeeding Annual General Meeting. Resigning Executive Committee members shall at all times be eligible for re-election.
- 8.5 In the event of a position on the Executive Committee falling vacant for any reason whatsoever, the Executive Committee, by resolution adopted by a majority of at least Two-Thirds (2/3) of its members, may co-opt a representative/s of an Institutional Member/s to fill the vacancy/ies. The office of any representative so co-opted as member of the Executive Committee shall lapse unless confirmed by resolution of the Institutional Members of the Association adopted at the first General Meeting which takes place after such co-option.
- 8.6 The Institutional Members represented on the Executive Committee shall be entitled to remove, replace and substitute their representative/s at their discretion from time to time, provided that the appointment of any such replacement or substitute member of the Executive Committee shall lapse unless confirmed by resolution adopted by the Institutional Members at the first General Meeting which succeeds such appointment.
- 8.7 Members of the Executive Committee wishing to resign other than at an Annual General Meeting as contemplated in Clauses 8.3, 8.4 and 8.5 above, shall give at least One (1) School term's notice to the Association.
- 8.8 Notwithstanding anything to the contrary set out above, the Executive Committee, by resolution adopted by a majority of at least Three-Quarters (3/4) of its members in office from time to time, shall be entitled to remove any of its members, whether elected or co-opted; and if it decides this is appropriate or necessary, it may co-opt another representative of an Institutional Member in his or her place. Any person so co-opted shall hold office until the next General Meeting, at which Meeting his or her appointment shall lapse unless confirmed by Resolution adopted by the Institutional Members of the Association. The Executive Committee shall not be obliged to furnish reasons for or to justify its decision/s regarding

removal and co-option, except to the member removed and to the Members of the Association in General Meeting.

## **9. Alternates**

9.1 Each member of the Executive Committee shall have the power to appoint one of the Committee's other members, or any other person, to act as his or her alternate during a temporary absence or inability to act as member, provided that such other person who is not a member of the Executive Committee :

9.1.1 is not disqualified from acting as a member of the Executive Committee in terms of this Constitution;

9.1.2 has been approved by a majority of the remaining members of the Executive Committee in their sole discretion.

9.2 An alternate member of the Executive Committee, while acting in the place of the person who appointed him or her, shall be entitled and required to exercise all powers and authorities of the member he or she represents, subject to any specific limitation contained in a written instruction by that member.

## **10. Executive Member Vacating Office**

The office of member of the Executive Committee shall be vacated if a member:

10.1 resigns; or

10.2 becomes of unsound mind; or

10.3 becomes unfit and/or incapable of acting as such; or

10.4 becomes insolvent or assigns his or her estate for the benefit of or compounds with his or her creditors; or

10.5 would be disqualified, in terms of the Companies Act or equivalent legislation in force from time to time, from acting as a Director of a Company; or

10.6 is removed, replaced or substituted by the Institutional Member s/he represents (as contemplated in Clause 8.7), or in terms of a Resolution duly passed in accordance with the provisions of Clause 8.9 above.

## **11. Procedure at Executive Committee Meetings**

11.1 The Executive Committee shall conduct its meetings and regulate its proceedings as it finds convenient, provided that:

11.1.1 the Chairperson, or in his or her absence, the Vice-Chairperson, shall chair all meetings of the Executive Committee which he or she attends. In the absence of the Chairperson and the Vice-Chairperson, the remaining members of the Executive Committee shall elect a chairperson from their number.

- 11.1.2 The Chairperson may convene a meeting of the Executive Committee, and shall be obliged on the request of any two (2) members of the Executive Committee to convene such a meeting at any other time.
- 11.1.3 The quorum necessary for the transaction of any business by the Executive Committee shall be Three (3) members.
- 11.1.4 At meetings of the Executive Committee each member shall have One (1) vote.
- 11.1.5 Questions arising shall be decided by a majority of votes. In the event of an equality of votes the Chairperson shall not have a casting or second vote.
- 11.1.6 Proper minutes shall be kept of the proceedings of the Executive Committee, and a record of the persons present at each meeting. The minutes shall be signed by the Chairperson or the other member who chairs the meeting, and shall be available at all times for inspection or copying by any member of the Executive Committee, and on Two (2) days' notice to the Secretary or his or her deputy, by any Member of the Association.
- 11.1.7 A resolution signed by all members of the Executive Committee shall be as valid as if passed at a duly convened meeting of the Executive Committee.
- 11.2 The Executive Committee may delegate any of its powers and prerogatives to an Executive member, or to a special purpose committee, or an employee or agent of the Association, as it decides is appropriate. The member, committee, employee or agent to whom such delegation is made shall, in the exercise of the relevant functions, conform to any regulations and procedures that may be stipulated by the Executive Committee from time to time.
- 11.3 The Executive Committee may appoint a Chief Executive and other officers and employees as it may consider necessary from time to time upon such terms and conditions as it may consider appropriate.

## **12. General Meetings**

### **12.1 Annual General Meeting**

- 12.1.1 An Annual General Meeting of the Association shall be held within a period of Fifteen (15) months of the adoption of this Constitution, and subsequent Annual General Meetings shall be held as soon as possible, but in any event within Three (3) months, after the end of each financial year.
- 12.1.2 An Annual General Meeting of the Association shall be convened by the Chairperson on no less than Twenty-one (21) days' prior written notice of such Meeting shall be given to all Members entitled to attend it.
- 12.1.3 The Annual General Meeting shall be convened by the

Chairperson.

12.1.4 The business of an Annual General Meeting shall include, inter alia:

12.1.4.1 the election of a person to chair the meeting;

12.1.4.2 the presentation and adoption of the Annual Report of the Chairperson;

12.1.4.3 the consideration of the Annual Financial Statements;

12.1.4.4 the election of representatives of Institutional Members to serve on the Executive Committee for the following year;

12.1.4.5 the appointment of Auditors;

12.1.4.6 such other matters as may be considered appropriate.

## 12.2 **Other General Meetings**

12.2.1 Other General Meetings of the Association may be convened at any time at the request of:

12.2.1.1 the Executive Committee;

12.2.1.2 the Chairperson; or

12.2.1.3 any Two (2) Institutional Members.

12.2.2 Any General Meeting other than the Annual General Meeting shall be convened on not less than Fourteen (14) days' written notice to all Institutional and Private Members entitled to attend General Meetings, and such notice shall state in broad terms the business to be transacted at the Meeting: provided that should the Chairperson, having been requested to give such notice, fail to give it within Fourteen (14) days of the request, the persons requesting the Meeting shall be entitled themselves to give notice of and to convene the Meeting.

## 12.3 **Resolutions and Voting**

12.3.1 At all General Meetings, a Resolution put to the vote shall be only by a poll. A poll shall be taken as directed by the Chairperson, and the result of the poll shall be the Resolution of the Meeting.

12.3.2 Each Institutional Member present or represented at such Meeting shall be entitled to One (1) vote. The Chairperson shall NOT be entitled to a second or casting vote in the event of an equality of votes. Questions arising shall be decided by a majority of votes.

12.3.3 In the event of any Institutional Member not being present in person or by proxy at any General Meeting, such Institutional Member shall be entitled to vote on any matter arising at such General Meeting by transmitting such vote to the Association by e-mail or other computer link or network; provided that such vote shall be so notified to the Association at least Three (3) days prior to the date of the relevant General Meeting.

## 12.4 **Quorum**

12.4.1 A quorum constituting a General Meeting of the Association shall be the lesser of:

12.4.1.1 Four (4) Institutional Members; or

12.4.1.2 One half (1/2) of the Institutional Members.

12.4.2 Should any General Meeting, having been duly convened but no quorum being present, such Meeting shall stand adjourned to another date, which shall not be less than five (5) days thereafter, as may be determined by the Executive Committee, and notice reflecting such adjournment shall be given to the persons and in the manner provided for in this Constitution. At such reconvened General Meeting, the Institutional Members then present or represented shall be deemed to constitute a quorum.

## 12.5 **Minutes**

Proper minutes shall be kept of the proceedings of all General Meetings, and a record of the persons present at each meeting. The minutes shall be signed by the chairperson of the meeting, and shall be available for inspection or copying by any member on two (2) days notice to the Secretary.

## 12.6 **Powers**

Subject to the provisions of Clause 8.1.2 above, a duly convened General Meeting of the Association, at which a quorum is present, is competent to carry out all the objectives and to exercise all the powers of the Association as set out in this Constitution.

## 13. **Notices**

13.1 Notice of all meetings provided for in this Constitution, shall be delivered personally, or sent by prepaid registered post, to the last address notified by each person concerned to the Association, or in such other manner (including by electronic transmission) as the Executive Committee believes is expedient.

13.2 The inadvertent omission to address notice/s to any person shall not invalidate the proceedings of any meeting.

13.3 If posted, notices shall be deemed to have been received Seven (7) days after posting.

## 14. **Financial Matters**

### 14.1 **Bank Account**

The Executive Committee shall open a bank account in the name of the Association with a registered Bank or financial institution. The Executive Committee shall ensure that all monies received by the Association are

deposited in the abovementioned bank account as soon as possible after receipt.

#### **14.2 Signatures**

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

#### **14.3 Financial Year End**

The Association's financial year end shall be the end of February of each year.

#### **14.4 Financial Records**

The Executive Committee shall ensure that the Association keeps proper records and books of account which fairly reflect the affairs of the Association.

#### **14.5 Annual Narrative Report and Financial Statements**

14.5.1 The Executive Committee shall ensure that the Association prepares an annual narrative report describing the Association's activities and an Annual Financial Statement for each financial year. The Annual Financial Statements shall conform with generally accepted accounting principles and shall include a statement of income and expenditure and a balance sheet of assets and liabilities and capital and revenue accounts.

14.5.2 Within two (2) months after drawing up the Annual Financial Statements, the Executive Committee shall ensure that the Association arranges for an accounting officer to certify that the annual financial statements are consistent with the financial records of the Association and that its accounting policies are appropriate and have been appropriately applied in the preparation of its financial statements.

14.5.3 A copy of the Annual Financial Statements and annual narrative report shall be made available to all members as soon as possible after the close of the financial year.

### **15. Legal Status**

The Association is a body corporate with its own legal identity which is separate from its individual members. The Association shall continue even if the member s change. The Association may:

15.1 own property and enter into contracts in its own name; and

15.2 sue or be sued in its own name.

## **16. Area of Operations**

- 16.1 The activities of the Association, and the area within which it may use and spend its resources and funds, shall be confined to the District.
- 16.2 The Association shall be entitled to collect contributions throughout the District and elsewhere.

## **17. Amendments to Constitution and Dissolution**

- 17.1 Subject to Clause 6.10, the terms of this Constitution may be amended, the name of the Association may be changed and the Association may be dissolved by decision of the Institutional Members in General Meeting, provided that written notice of the proposed resolution is given not less than Twenty-Eight (28) days prior to the date of the Meeting, and such notice states the nature of the resolution to be proposed. Any such resolution shall be deemed to have been adopted only if it is supported by not less than Four-Fifths (4/5) of the Institutional Members present at the Meeting, being not less than the minimum number necessary to constitute a quorum.
- 17.2 For the avoidance of doubt, and notwithstanding anything to the contrary contained in this Constitution, it is confirmed that :
- 17.2.1 a resolution signed by all the Institutional Members present for the time being in the District; or
- 17.2.2 assented to via transmission to the Association by e-mail or other computer network or link, by all the Institutional Members present for the time being in the District; and constituting not less than the minimum number necessary to constitute a quorum, shall be valid as if it had been passed at a duly convened General Meeting of the Association.
- 17.3 on dissolution of the Association all assets should be distributed to organisations or associations who hold similar objectives.

## **18. Indemnity**

- 18.1 Subject to the provisions of any relevant statute, each member of the Executive Committee and all other office bearers shall be indemnified by the Association for all acts done by them in good faith on its behalf; and it shall be the duty of the Association to pay all costs and expenses which any such person incurs or becomes liable for as a result of any contract entered into, or act or deed done by him or her, in his or her said capacity, in the bona fide discharge of his or her duties on behalf of the Association.
- 18.2 Subject to the provisions of any relevant statute, no member of the Executive Committee or other office bearer of the Association shall be liable for the acts, receipts, neglects or defaults of any other member or office bearer, or for having joined in any receipt or other act for conformity, or for any loss or expense suffered by the Association through the insufficiency or deficiency of title to any property acquired by the Association; or for the insufficiency or deficiency of any security on which

the monies of the Association may be invested; or for any loss or damage arising from the bankruptcy, insolvency or delictual act of any person with whom any money or securities are deposited or for any loss or damage caused in any other way, which occurs in the execution of the duties of his or her office or in relation thereto, unless it arises in consequence of his or her dishonesty, or failure to exercise the degree of care, diligence and skill required by law.

## **19. Executive Committee Discretion**

Where discretions are vested in the Executive Committee and/or the Association in terms of this Constitution, such discretions, except where expressly limited, shall be complete and absolute, and no person affected by any decision made by the Executive Committee or the Association pursuant to their discretionary powers shall be entitled to challenge such a decision: provided that the Executive Committee shall at all times be obliged to conform to the Object of the Association, and generally to comply with the terms and conditions of this Constitution. The Executive Committee shall be under no obligation to justify or furnish reasons for decisions taken by them in the legitimate exercise of their discretionary powers, except to the Members in General Meeting.

## **20. Disputes**

- 20.1 In the event of a serious disagreement between the members of the Executive Committee and/or the Association regarding the interpretation of this constitution then any two (2) Executive Committee members or any five (5) members of the Association shall be entitled to declare a dispute. Such declaration shall be in writing, state the issue in dispute, and be addressed to the Executive Committee.
- 20.2 The Executive Committee shall consider such declaration within two (2) weeks of receiving it. Should the Executive Committee not be able to resolve the dispute to the satisfaction of the person(s) declaring it, the dispute shall be referred either to a mediator or arbitrator.
- 20.3 Should the dispute be referred to a mediator, the person(s) declaring the dispute and the Executive Committee must agree on a suitable mediator and to the costs of such mediation. A mediator may recommend an appropriate resolution of the dispute.
- 20.4 In the absence of agreement regarding a mediator or should mediation not resolve the dispute, the dispute shall be referred to arbitration. The arbitrator shall be such suitably qualified person/s as the person(s) declaring the dispute and the Executive Committee may mutually agree. Alternatively, each of the parties shall be entitled to nominate one arbitrator, who shall act jointly with a third person to be nominated jointly by the respective nominees of the parties; on the basis that a majority decision of the appointed arbitrators shall be final and binding.

- 20.5 The arbitration shall be held on an informal basis, and the arbitrator shall have the power to determine the procedure to be adopted subject to principles of natural justice.
- 20.6 The arbitrator may base her/his award not only upon the applicable law but also upon the principles of equity and fairness.
- 20.7 The person(s) declaring the dispute and the Executive Committee, beforehand, may agree to share the costs of the arbitration. In the absence of such agreement the arbitrator shall decide which parties shall be liable for the costs.
- 20.8 The decision of the arbitrator shall be final and binding upon all parties and capable of being made an Order of Court on application by any of them.
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## **SCHEDULE "A"**

### **GENERAL INVESTMENT AND ADMINISTRATIVE POWERS**

Without limiting the discretionary and specific powers set out in the preceding Constitution, but subject to the limitations and qualifications set out in it, the Executive Committee shall have the following general investment and administrative powers:

1. To invest the Association funds as they see fit in their sole and absolute discretion: on condition that any investments made by the Association shall be with Financial Institutions as defined in Section 1 of the Financial Institutions (Investment of Funds) Act 1984; or in shares listed on a duly licensed Stock Exchange as defined in the Stock Exchanges Control Act 1985.
2. To take over investments and assets forming the subject matter of donations made to the Association, and to retain them in the form in which they are received, or to realise (sell) them and re-invest the proceeds.
3. To realise (sell) or vary any investments from time to time forming part of the Association funds and to re-invest the proceeds in any investments authorised by this Schedule.
4. To allow funds or monies forming part of the Association funds to remain uninvested or in their original state of investment on acquisition by the Association.
5. To borrow on such terms and conditions as the Executive Committee decides for any of the objects of the Association; including the payment of liabilities; the making of a loan in furtherance of the Object of the Association; the preserving or acquiring of any assets or investments; the subscription of any shares; with powers from time to time to consent to any alteration or variation

of the terms applicable thereto; and as security for any money so borrowed, the Association shall be entitled to mortgage, pledge (either generally or specifically) or otherwise encumber, all or any portion of the Association funds, in the manner and on terms and conditions as it sees fit, with the right also to replace such borrowings or security.

6. To guarantee (either gratuitously or for a consideration) the performance of contracts or obligations of any person (including a juristic person), upon such terms and conditions, and with or without security, as the Executive Committee in their sole and absolute discretion see fit; provided that any such person shall be wholly or chiefly engaged in activities which further the Object of the Association.
7. To exercise the voting power attached to any shares forming part of the Association funds as the Executive Committee considers appropriate, and the Executive Committee shall be entitled to enter into any arrangements they consider necessary for the liquidation, reconstruction or amalgamation of any company of whose capital the shares form a part.
8. To deal with any of the assets forming part of the Association funds, by way of exchange, sale, lease or otherwise, and in exercising any powers of sale they shall be entitled to cause such sale to be effected by public auction, tender or private treaty, as they consider appropriate.
9. To purchase or otherwise acquire immovable property, and in respect of any immovable property forming part of the Association funds :
  - 9.1 to exchange, sell, lease or otherwise deal with such immovable property or any portion of it, and to grant rights or options in respect of it; to register mortgage bonds; and to maintain, repair or improve any buildings on or forming part of such immovable property.
  - 9.2 to execute any act or deed relating to alienation, partition, exchange, transfer, mortgage, hypothecation or otherwise in any Deeds Registry, Mining Titles Office or other public office; to deal with servitudes, usufructs, limited interests or otherwise; and to make any applications, grant any consents and agree to any amendments, variations, cancellations, cessions, releases, reductions, substitutions or otherwise generally relating to any deed, bond or document and to obtain copies of any deeds, bonds or documents for any purposes and generally to do or cause to be done any act whatsoever in any such Registry or office.
10. To transfer shares or other assets into the names of one or more of the Executive Committee, as nominee/s for the Association, or into the name of any other nominee/s for the Association.
11. To exercise all such management and executive powers as are normally vested in the Board of Directors of a Company, including the employment of staff and the securing of services to the Association of persons in professional capacity.
12. The Executive Committee shall be entitled generally to deal with assets and investments forming part of the Association funds in any manner they decide is proper, and to this end are hereby vested with all additional powers which are necessary to enable them to do so.

13. All powers and authority granted to the Executive Committee in terms of this Schedule may be exercised not only in the District but in any other part of the world.
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## **SCHEDULE “B1”**

### **INSTITUTIONAL MEMBERS**

Diocesan School for Girls

Graeme College

Kingswood College

St Andrew’s College

Victoria Girls’ High School

Victoria Primary School

## **SCHEDULE “B2”**

### **INSTITUTIONAL MEMBERS**

Dom Averbuch

Barry Irwin

Mark Maritz

Anton Redelinghuys

Gert Roodt

Eddie Wille