

**CONSTITUTION OF THE
SOUTH AFRICAN PHOTOVOLTAIC INDUSTRY ASSOCIATION**



South African Photovoltaic Industry Association

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CONSTITUTION OF THE SOUTH AFRICAN PHOTOVOLTAIC INDUSTRY ASSOCIATION

1. Name

1.1 The Association constituted by this document shall be called the South African Photovoltaic Industry Association.

1.2 Its name shall be abbreviated as SAPVIA.

2. Definitions

2.1 In this Constitution the following words shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings and other words derived from the same origins as such words (that is, cognate words) shall bear corresponding meanings:

2.1.1	"Alternate Representative"	<ul style="list-style-type: none"> - the Member's alternate representative nominated in terms of article 6.6.1;
2.1.2	"Annual Fees"	<ul style="list-style-type: none"> - the annual membership fees payable by Members in terms of article 6.5;
2.1.3	"Annual General Meeting"	<ul style="list-style-type: none"> - a meeting convened annually in terms of article 11.1.1;
2.1.4	"Associate"	<ul style="list-style-type: none"> - a person belonging to the class of Members defined in article 6.1.5.1;
2.1.5	"Association"	<ul style="list-style-type: none"> - the South African Photovoltaic Industry Association;
2.1.6	"Chairperson"	<ul style="list-style-type: none"> - the person defined in article 7.2.1 and elected in terms of article 7.1.3.1 whose role is set out in article 7.2;
2.1.7	"Commissioner"	<ul style="list-style-type: none"> - a member of the Management Committee;
2.1.8	"Constitution"	<ul style="list-style-type: none"> - the constitution of the Association;

2.1.9	"Exceptional Application"	<ul style="list-style-type: none"> - an application for membership made in terms of article 6.3.3;
2.1.10	"General Meeting"	<ul style="list-style-type: none"> - a meeting convened in terms of article 11.1.1;
2.1.11	"Green Card Member"	<ul style="list-style-type: none"> - a person admitted to the class of Members defined in article 6.1.6;
2.1.12	"Intended Resolution"	<ul style="list-style-type: none"> - a resolution that may be passed by the Management Committee to exclude or expel a Member in terms of article 6.10.3;
2.1.13	"Management Committee"	<ul style="list-style-type: none"> - the committee elected and instituted in terms of 7.1.3.1 that is charged with the management of the Association;
2.1.14	"Member(s)"	<ul style="list-style-type: none"> - Sponsors, Ordinary Members, Associates, PV Professionals and Green Card Members collectively;
2.1.15	"Nominated Representative"	<ul style="list-style-type: none"> - a person nominated to represent a Member in terms of article 6.6.1;
2.1.16	"Observer"	<ul style="list-style-type: none"> - any person invited to attend a General or Special General Meeting in terms of article 12;
2.1.17	"Ordinary Member"	<ul style="list-style-type: none"> - any person belonging to the class of Members defined in article 6.1.4;
2.1.18	"PV"	<ul style="list-style-type: none"> - Photovoltaic;
2.1.19	"PV Professional"	<ul style="list-style-type: none"> any person belonging to the class of Members defined in article 6.1.7;
2.1.20	"Secret Ballot"	<ul style="list-style-type: none"> - a vote in which each person's choice is kept secret and the totalled votes are made public;

2.1.21	"Secretariat"	the secretariat of the Association as referred to in article 7.6
2.1.22	"Simple Majority"	<ul style="list-style-type: none"> - a simple majority is obtained when a matter is put to the vote and more than 50% of the voters, present and eligible to vote, vote in favour of the decision to be made;
2.1.23	"South Africa"	<ul style="list-style-type: none"> - the Republic of South Africa;
2.1.24	"Special General Meeting"	<ul style="list-style-type: none"> - a meeting convened in terms of article 11.1.2;
2.1.25	"Special Resolution"	<ul style="list-style-type: none"> - a resolution that is passed when 75% of the voters, present and eligible to vote, vote in favour thereof;
2.1.26	"Spokesperson"	the Commissioner elected in terms of article 7.1.3.2.1;
2.1.27	"Sponsor"	<ul style="list-style-type: none"> - a person belonging to the class of Members defined in article 6.1.3;
2.1.28	"Subscription Fees"	<ul style="list-style-type: none"> - a once-off joining fee that shall be payable by applicants, in terms of article 6.5.3, before their admission into membership of the Association;
2.1.29	"Terms of Sponsorship Agreement"	<ul style="list-style-type: none"> - an agreement concluded in terms of article 6.3.1.1 between a prospective Sponsor and the Association;
2.1.30	"Treasurer"	<ul style="list-style-type: none"> - the Commissioner elected in terms of article 7.1.3.2.1 whose role is set out in article 7.4;
2.1.31	"Vice-Chairperson"	<ul style="list-style-type: none"> - the Commissioner elected in terms of article 7.1.3.2.1 whose role is set out in article 7.3.
2.2	Unless otherwise stated, any reference to "article" shall be a reference to an article of this Constitution.	

3. Legal Status

This Association has the legal status of a body corporate under the common law of South Africa, known as a *universitas personarum*. The Association shall therefore:

- 3.1 exist in its own right, separate and distinct from its Members;
- 3.2 enjoy perpetual existence;
- 3.3 be able to own property and other possessions; and
- 3.4 be able to sue and be sued in its own name.

4. Prohibitions and Limitations

- 4.1 The Association limits the liability of its Members, Commissioners and any other office bearer to the amount of R2.00 each.
- 4.2 No Member, Commissioner or other office bearer has any right, title, claim or interest to the assets and/or property of the Association by reason of their status in the Association.
- 4.3 The Association shall only alienate immovable property or real rights of which it is the owner after a Special Resolution has been passed by Members in a General Meeting in favour of such alienation.

5. Objectives and Powers

- 5.1 The Association aims to promote Photovoltaic ("PV") technologies in South Africa and Africa and to assist its Members in their business development in these markets by:
 - 5.1.1 representing the PV industry before governmental and regulatory institutions in all forums within South Africa and assisting in an advisory role within the Southern African Development Community region when requested to do so;
 - 5.1.2 informing its Members on the latest legislative developments;
 - 5.1.3 anticipating legislation having a potential impact on the sector;
 - 5.1.4 advising key decision-makers on the most adequate policies to develop a sustainable PV market;

- 5.1.5 mobilising the sector by way of working groups and workshops to define clear positions representing the views of the majority of the industry on political, technical and economic issues;
- 5.1.6 promoting a higher usage of the technology in the public and private sectors;
- 5.1.7 facilitating business-to-business contacts among industry stakeholders;
- 5.1.8 supporting national organisations in achieving their local objectives;
- 5.1.9 coordinating with other renewable energy industry groups on lobbying government stakeholders around common issues; and
- 5.1.10 organising conferences where solar electricity has strong potential and requires additional support.

5.2 In pursuing its objectives, the Association shall have such powers as are normally associated with an *universitas personarum* under the common law of South Africa.

6. **Membership**

6.1 **Classes of Members**

- 6.1.1 The following classes of Members shall be recognised in the Association:

- 6.1.1.1 Sponsors;
- 6.1.1.2 Ordinary Members;
- 6.1.1.3 Associates; and
- 6.1.1.4 Green Card Members;
- 6.1.1.5 PV Professionals.

- 6.1.2 Subject to the terms of this Constitution, the Management Committee may stipulate criteria and benefits applicable for each of the classes of Members from time to time.

6.1.3 **Sponsors**

- 6.1.3.1 Sponsors shall be material financial contributors of the Association. In addition to the criteria detailed in article 6.2 below and such other

criteria as may be used by the Management Committee to assess an applicant's eligibility for membership as a Sponsor, admission to this group of membership shall be determined by an applicant's willingness and ability to financially contribute to the Association.

6.1.3.2 Sponsors shall have no automatic right to a seat on the Management Committee.

6.1.3.3 Sponsors' votes shall carry a material weight in any decision-making process of the Association. However, Sponsors' votes may be weighted differently and the weighting to be attached to each Sponsor's vote shall be determined by the Terms of Sponsorship Agreement negotiated and concluded in terms of article 6.3.1.

6.1.4 **Ordinary Members**

6.1.4.1 Ordinary Members shall be Members that:

6.1.4.1.1 are unwilling or unable to financially contribute to the Association in the manner required of Sponsors; but

6.1.4.1.2 meet every other criterion of eligibility for membership as a Sponsor.

6.1.4.2 Ordinary Members shall have no automatic right to a seat on the Management Committee.

6.1.4.3 Ordinary Members' votes shall carry less weight than Sponsors' votes in any decision-making process of the Association, unless this Constitution specifically provides otherwise.

6.1.5 **Associates**

6.1.5.1 Associates shall be Members who meet the criteria detailed in article 6.2.2. Associates shall have limited opportunities to:

6.1.5.1.1 participate in and stimulate any discussions or debates that arise in any meetings of the Association; and

6.1.5.1.2 vote, or otherwise participate, in any decision making process of the Association.

6.1.5.2 Associates shall have no automatic right to a seat on the Management Committee.

6.1.5.3 Associates' votes shall bear the least weight in any decision-making process of the Association.

6.1.6 **Green Card Members**

6.1.6.1 Subject to the provisions of article 6.2.3, Green Card Membership shall be open to all installers to whom the Association has issued a PV GreenCard in accordance with its PV GreenCard programme.

6.1.6.2 Green Card Members shall have:

6.1.6.2.1 no voting rights;

6.1.6.2.2 limited access to information; and

6.1.6.2.3 limited opportunities to participate in and stimulate any discussions or debates that may arise in any meeting of the Association.

6.1.6.3 Green Card Members shall have no seats in the Management Committee.

6.1.7 **PV Professionals**

6.1.7.1 PV Professionals shall be Members who meet the criteria detailed in article 6.2.4.

6.1.7.2 Green Card Members shall have:

6.1.7.2.1 no voting rights;

6.1.7.2.2 access to the PV Professionals platform, which is a digital solution that provides access to knowledge, training and opportunities to collaborate with national and international stakeholders.

6.1.7.3 PV Professionals shall have no seats in the Management Committee.

6.2 Qualification Criteria**6.2.1 Sponsors and Ordinary Members**

6.2.1.1 Membership as a Sponsor or an Ordinary Member shall only be open to companies and organisations with commercial or developmental interest in the production of Solar PV electrical energy in South Africa that have:

6.2.1.1.1 provided written consent to the Association to receive notices and newsletters from the Association in terms of any South African legislation which provides for the protection of personal information; and

6.2.1.1.2 paid such Subscription, Sponsorship and/or Annual Fees as may be prescribed by the Association from time to time.

6.2.2 Associates

6.2.2.1 Membership as an Associate shall be open to all natural persons, companies or institutions that have:

6.2.2.1.1 provided written consent to the Association to receive notices and newsletters from the Association in terms of any South African legislation which provides for the protection of personal information; and

6.2.2.1.2 paid such Subscription and Annual Fees as may be prescribed for Associates from time to time.

6.2.2.2 Associates need not have any commercial or developmental interests in the independent production of Solar PV electrical energy in South Africa.

6.2.3 Green Card Members

6.2.3.1 Membership as a Green Card Member shall be open to all installers to whom the Association has issued a PV GreenCard in accordance with its PV GreenCard programme, provided that such person has:

- 6.2.3.1.1 provided written consent to the Association to receive notices and newsletters from the Association in terms of any South African legislation which provides for the protection of personal information; and
- 6.2.3.1.2 paid such Subscription and Annual Fees as may be prescribed for Green Card Members from time to time.

6.2.4 **PV Professionals**

- 6.2.4.1 Membership as a PV Professional shall be open to any professionals across the solar PV value chain, which do not represent a large company or corporate but wish to become Members in their personal professional capacity, provided that such person has:
 - 6.2.4.1.1 provided written consent to the Association to participate in the PV Professionals platform and receive other information from the Association in terms of any South African legislation which provides for the protection of personal information; and
 - 6.2.4.1.2 paid such Subscription and Annual Fees as may be prescribed for PV Professionals from time to time.

6.3 **Application Process**

6.3.1 **Application for membership as a Sponsor**

- 6.3.1.1 Applicants may apply for admission in writing and in such form as the Management Committee may from time to time determine.
- 6.3.1.2 Approval of a prospective Sponsor's application shall be subject to the discretion of the Management Committee. If any application for prospective membership as a Sponsor is refused, the provisions of articles 6.3.2.4 and 6.3.2.5 shall apply *mutatis mutandis*.
- 6.3.1.3 Before any prospective Sponsor's application for membership can be approved, a written agreement must be negotiated by, and concluded between, the prospective Sponsor and the Management Committee, acting on behalf of the Association. This agreement shall be known as the "**Terms of Sponsorship Agreement**" and shall set out the terms

on which membership, as a Sponsor, in the Association will be offered to, and accepted by, the prospective Sponsor. The Terms of Sponsorship Agreement must specify the following:

- 6.3.1.3.1 the weighting that will attach to the prospective Sponsor's votes;
- 6.3.1.3.2 the Subscription and Annual Fees payable by such prospective Sponsor; and
- 6.3.1.4 The Management Committee shall not reach any final agreement with the prospective Sponsor concerning the terms of the Terms of Sponsorship Agreement, without consulting and obtaining the approval of the paid up Ordinary Members in the Association.
- 6.3.1.5 The approval required in terms of this article 6.3.1 shall take the form of a vote in favour of the proposed terms of Sponsorship Agreement which vote shall be taken at any General Meeting of the Association, including the Annual General Meeting, or at any Special General Meeting convened for the purposes of obtaining such approval.
- 6.3.1.6 A prospective Sponsor shall only become a Sponsor upon full settlement of the applicable Subscription and Annual Fees.

6.3.2 Application for membership as an Ordinary Member, an Associate or as a Green Card Member

- 6.3.2.1 All membership applications are subject to approval of the Management Committee. Any person who is eligible for membership of the Association as an Ordinary Member, an Associate or a Causal Member may apply to the Management Committee for admission to the desired class of Members in writing, signed by the applicant in the form that the Management Committee may from time to time determine. The Management Committee is entitled to request such information or evidence for eligibility of membership as it may deem necessary.
- 6.3.2.2 The Management Committee will consider any application for membership and if it is reasonably satisfied that the applicant is eligible for membership as an Ordinary Member, an Associate or a Green Card Member, as the case may be, the Management Committee shall:

- 6.3.2.2.1 notify the applicant of such eligibility in writing; and
- 6.3.2.2.2 request full settlement of the relevant Subscription and Annual Fees.
- 6.3.2.3 Applicants will only be admitted into membership upon full settlement of the fees referred to in article 6.3.2.2.2.
- 6.3.2.4 If any application for prospective membership is refused, the Management Committee shall give the unsuccessful applicant written reasons, which reasons shall be in the public domain.
- 6.3.2.5 A party whose application for membership has been refused may request that the refusal be reviewed at the following General Meeting. The unsuccessful applicant shall be admitted into membership following a vote in favour of such admission by all paid up Sponsors and Ordinary Members present at the General Meeting. Such request should be directed to the Secretariat within 3 months of the refusal.

6.3.3 Exceptional applications for membership

- 6.3.3.1 Parties that do not comply with the membership criteria for their desired class of membership may lodge an exceptional application for membership ("**Exceptional Application**") to the Management Committee through the Secretariat.
- 6.3.3.2 The Management Committee shall compile an initial assessment of the Exceptional Application, which assessment shall specify the position of the Management Committee regarding the application. This initial assessment shall be presented to the Members at the next General Meeting or at a Special General Meeting convened for that purpose.
- 6.3.3.3 Each Exceptional Application shall be decided by a Special Resolution passed by Members present and entitled to vote at a General Meeting or a Special General Meeting of the Association, as the case may be.
- 6.3.3.4 The Management Committee may delegate its function and power for approval of membership applications in terms of article 6.3.2 to the Secretariat.

6.4 **Obligations of Members**

6.4.1 All Members shall be bound to further, to the best of their ability, the objectives and interests of the Association.

6.4.2 Members shall comply with the Constitution and with the instructions of the Management Committee and shall accept the Management Committee's authority as binding.

6.4.3 Members shall not act in a manner prejudicial to the interests of the Association.

6.4.4 No Member shall pass confidential information including, but not limited to, any documents, records, interviews or minutes obtained or created through the activities of the Association to non-members.

6.4.5 No Member shall make any statement, whether orally or in writing, to the press, television or radio, representing such statement as the policy or view of the Association, unless expressly authorised to do so by the Management Committee. The Management Committee shall not authorise any Member to make any statement that is contrary to this Constitution and the objectives of the Association.

6.4.6 A Member shall keep the Association notified, in writing, of any change of its address and unless and until such notification has been received by the Association, a Member's address for Association purposes shall be deemed to be the last address of the Member appearing in the Association's register of Members.

6.4.7 No Member may use the Association and the name of the Association directly or indirectly for commercial gain in any manner that contravenes the provisions of this Constitution.

6.4.8 If any Member wilfully refuses or neglects to comply with the provisions of this Constitution, or is guilty of any conduct which in the opinion of the Management Committee is unbefitting of a Member or prejudicial to the interests of the Association, the Management Committee shall have the power to pass a resolution that excludes or expels such Member from the Association, during any meeting of the Management Committee provided

that the provisions of article 6.10.3 of this Constitution shall apply *mutatis mutandis*.

6.5 Fees

- 6.5.1 The subscription fees ("Subscription Fees") and annual membership fees ("Annual Fees") payable for each financial year shall be determined by the Management Committee from time to time, and shall be communicated, in writing, to Members and prospective Members, where relevant.
- 6.5.2 Sponsors shall pay the highest Subscription and Annual Fees, followed by Ordinary Members who shall pay lower Subscription and Annual Fees. Associates shall pay lower Subscription and Annual Fees than Ordinary Members, and Green Card Members and PV Professionals shall pay the lowest Subscription and Annual Fees.
- 6.5.3 Subscription Fees shall be a once-off joining fee, payable by applicants for admission into membership.
- 6.5.4 Annual Fees shall be the membership fees of the Association and shall be payable annually in advance.
- 6.5.5 Interest shall be payable on late payments of any Annual Fees.
- 6.5.6 If the Annual Fees of any Member remains unpaid for a period of 2 calendar months after it becomes due, such Member may, after notice of default has been sent to him by the Management Committee, be barred by any resolution of the Management Committee from all privileges of membership provided that the Management Committee may reinstate the Member on payment of all arrears if the Management Committee thinks it fit to do so.
- 6.5.7 The Management Committee shall have the discretion to waive or reduce any fee or interest that might otherwise be payable to the Association in special circumstances.

6.6 Representation

- 6.6.1 Every Sponsor, Ordinary Member and, where applicable, Associate shall:
 - 6.6.1.1 nominate one representative ("the **Nominated Representative**") and one alternate representative ("the **Alternate Representative**") to

represent such Sponsor, Ordinary Member or Associate at meetings of the Members. The Alternate Representative will represent the Sponsor, Ordinary Member or Associate, as the case may be, only in the event that Nominated Representative is unable to do so; and

- 6.6.1.2 provide the names of its Nominated Representative and Alternate Representative, to the Secretariat in writing, which representation may be changed in writing by the relevant Member at any time.
- 6.6.2 There shall be only one Nominated Representative and only one Alternate Representative per Sponsor, Ordinary Member and Associate present at each meeting of Members, as the case may be.
- 6.6.3 Every Associate that is a natural person and every Green Card Member shall represent himself or herself personally or by proxy.
- 6.6.4 Proxies shall be appointed in such manner and form as the Management Committee shall determine.

6.7 **Voting rights**

- 6.7.1 Only paid-up Members shall be eligible to vote.
- 6.7.2 Different weights shall attach to the votes of Sponsors, Ordinary Members and Associates, and where Associates are allowed to vote:
 - 6.7.2.1 one vote cast by a Sponsor shall bear the weight negotiated and agreed on by the Sponsor and the Management Committee, in terms of article 6.3.1.3, as part such Sponsor's Terms of Sponsorship Agreement; and
 - 6.7.2.2 save where specified otherwise in this Constitution, one vote cast by an Ordinary Member shall be equivalent to 3 votes cast by an Associate.
- 6.7.3 Associates shall only be allowed to vote where this Constitution expressly allows them to vote.
- 6.7.4 No Green Card Member and no PV Professional shall be eligible to vote in any decision-making process of the Association.

6.8 Cancellation of Membership

- 6.8.1 Any Member shall have the right to cancel their membership at any time.
- 6.8.2 Members shall exercise the right in article 6.8.1 by notifying the Secretariat, in writing, of such Member's intention to do so.
- 6.8.3 Cancellation will take effect one month after the notification in article 6.8.2 has been received by the Secretariat.
- 6.8.4 No Annual or Subscription Fees shall be refunded to Members that cancel their membership.

6.9 Suspension

- 6.9.1 If any Member wilfully refuses or neglects to comply with the provisions of this Constitution, or is guilty of any conduct which, in the opinion of the Management Committee, is unbefitting of a Member or prejudicial to the interests of the Association, the Management Committee shall have the power to pass a resolution that suspends the Member from the Association during any meeting of the Management Committee, provided that the provisions of article 6.10.3 of this Constitution shall apply *mutatis mutandis*.
- 6.9.2 Members shall be suspended for such period as the Management Committee deems fair and appropriate.
- 6.9.3 Any Member suspended in terms of Article 6.9.1 shall not:
 - 6.9.3.1 be entitled to any of the services of the Association;
 - 6.9.3.2 seek the advice or assistance of the Association; and
 - 6.9.3.3 participate in the activities of the Association, including but not limited to:
 - 6.9.3.3.1 voting at any General Meeting;
 - 6.9.3.3.2 participating in any election of the Association;
 - 6.9.3.3.3 participating in any meeting of the Management Committee; and

6.9.3.3.4 participating in any duly constituted committee of the Association.

6.10 Termination of membership

6.10.1 In the case of ineligibility for membership

6.10.1.1 Any Member who ceases to be eligible for membership in terms of this Constitution shall withdraw from the Association within 3 months of ceasing to be eligible for membership.

6.10.1.2 Such member shall give one month's notice, in writing, shall be given to the Secretariat of such Member's intention to so withdraw from the Association and, upon the expiry of the notice, the Member concerned shall cease to be a Member.

6.10.1.3 Any Member who, having ceased to be eligible for membership, does not withdraw voluntarily in accordance with the provisions of this article 6.10 from the organisation may be excluded from the Association by resolution of the Management Committee and shall thereupon cease to be a Member.

6.10.2 In the case of unpaid fees

Any Member who, after having been given notice, in writing, by the Secretariat of the amount of any Annual Fees due by such Member, and of the date on which such fees are payable, fails to pay the amount concerned within 6 months of that date, may be excluded from the Association by resolution of the Management Committee and shall thereupon cease to be a Member.

6.10.3 In the case of misconduct

6.10.3.1 If any Member wilfully refuses or neglects to comply with the provisions of this Constitution, or is guilty of any conduct which in the opinion of the Management Committee is unbefitting of a Member or prejudicial to the interests of the Association, the Management Committee will have the power to pass a resolution that excludes the Member from the Association ("the **Intended Resolution**"), during any meeting of the Management Committee, provided that:

6.10.3.1.1 at least one week before the meeting of the Management Committee at which the Intended Resolution is to be passed, the Management Committee will have sent the Member written notice of the meeting, the allegations against such Member and the Intended Resolution; and

6.10.3.1.2 at the meeting detailed in article 6.10.3.1.1 and before the Intended Resolution is passed, such Member is given the opportunity to give such oral or written explanation or defence as such Member deems fit.

6.10.3.2 Any Member facing exclusion and notified in terms of article 6.10.3.1 may, by notice in writing lodged with the Management Committee at least 24 hours before the meeting mentioned in article 6.10.3.1.1, elect to have the question dealt with by the Association in a Special General Meeting.

6.10.3.3 In the event that a Special General Meeting is called pursuant to article 6.10.3.2 and, if at the Special General Meeting, a resolution is passed by a majority of 66.66% of Members present, voting and eligible to vote, in favour of the Member's exclusion, such Member or Participant will be excluded from the Association.

6.10.3.4 The vote at the Special General Meeting in article 6.10.3.3 shall be taken by way of Secret Ballot.

6.10.4 Cessation of membership in terms of this Constitution shall not release the Member concerned from:

6.10.4.1 liability for any fees or other amount due by the member to the Association; or

6.10.4.2 any other obligation to the Association.

6.11 **Reinstatement of Members**

A Member whose membership of the Association has been terminated may apply for reinstatement of its membership. The Management Committee, upon receipt of such an application may, in its discretion, readmit such person to membership

upon such terms and conditions, including the payment of a membership fee, as it may decide.

6.12 **Members' independence**

- 6.12.1 No Member shall be precluded, by virtue of such Member's affiliation with the Association, from expressing an alternative or independent view to that of the Association on issues pertinent to the objectives or the operation of the Association.
- 6.12.2 The Association shall not be precluded from expressing an alternative view to that expressed by a minority of its Members on issues pertinent to the objectives or the operation of the Association.

6.13 **Register of Members**

- 6.13.1 There shall be kept a database of Members in which there shall be recorded:
 - 6.13.1.1 the full name or names and the addresses of each Member and, where applicable, the commercial or developmental interests such that such Member may have in the independent production of Solar PV electrical energy in South Africa;
 - 6.13.1.2 the full names of the Nominated and Alternate Representatives of each Member, if any;
 - 6.13.1.3 the date on which each Member is admitted to membership of the Association; and
 - 6.13.1.4 the date on which any Member ceases to be a Member and the reason therefor.

7. **Management of the Association**

7.1 **Management Committee**

7.1.1 **Composition**

The Association shall have a management committee ("the **Management Committee**") in which there shall be ten (10) seats available for occupation by commissioners ("**Commissioners**").

7.1.1.1 The choice of Commissioners should reflect the interests of all players in the industry, as far as is possible. Therefore, of the ten (10) Commissioners, there should, as far as is possible, be at least:

- 7.1.1.1.1 two (2) Commissioners that represent the interests of solar power project developers and or installers;
- 7.1.1.1.2 two (2) Commissioners that represents the interests of suppliers or manufacturers of PV equipment;
- 7.1.1.1.3 one (1) Commissioner that represents the interests of financial institutions;
- 7.1.1.1.4 one (1) Commissioner from a research or an academic institution; and
- 7.1.1.1.5 one (1) Commissioner shall be a qualified attorney or advocate.

7.1.2 **Terms of Office**

- 7.1.2.1 Each Commissioner shall serve as a member of the Management Committee for a period of two (2) year, after which he or she shall retire but be eligible for re-election.
- 7.1.2.2 As far as possible, the end of the Commissioners' two (2) year-long term of office shall coincide with the Annual General Meeting of the Association.

7.1.3 **Appointment**

- 7.1.3.1 Appointment to the Management Committee (including the Chairperson)
 - 7.1.3.1.1 The Chief Executive shall solicit suitable nominations for:
 - 7.1.3.1.1.1 Commissioners in general; and
 - 7.1.3.1.1.2 the office of the Chairperson;
 - 7.1.3.1.2 from all fully paid-up Sponsor and Ordinary Members and provide a suitable opportunity for eligible Sponsors, Ordinary Members and Associate Members to vote the persons

mentioned in this article 7.1.3.1.1 into the Management Committee.

7.1.3.1.2 No Member shall have an automatic right to a seat on the Management Committee. All nominees for Commissioners must be voted into the Management Committee, irrespective of their number. If insufficient nominations are received in respect of Commissioner seats on the Management Committee, the provisions of article 7.7.4 shall apply in respect of the shortfall.

7.1.3.1.3 Whilst nominations must be solicited from Sponsor and Ordinary Members of the Association, the nominees themselves or their employers need not be Members of the Association to serve on the Management Committee in any capacity.

7.1.3.1.4 In providing for the vote specified in article 7.1.3.1, the Chief Executive Officer shall call for nominations for Commissioners not less than thirty (30) days prior to the Annual General Meeting of the Association. The Chief Executive Officer shall finalise and circulate a list of nominees not less than three (3) weeks before the Annual General Meeting. Voting shall occur at the Annual General Meeting and the results of the vote shall be published not more than two(2) weeks after the Annual General Meeting.

7.1.3.1.5 For all votes provided pursuant to article 7.1.3.1:

7.1.3.1.5.1 all appointments of Commissioners into the Management Committee shall be determined by a Simple Majority of votes;

7.1.3.1.5.2 only fully paid-up Sponsors, Ordinary Members and Associates shall be eligible to vote;

7.1.3.1.5.3 Sponsors' votes shall carry the weighting specified in the Terms of Sponsorship Agreement;

7.1.3.1.5.4 Ordinary Members shall carry the weighting of three (3) votes;

7.1.3.1.5.5 Associate Members shall carry the weighting of one (1) vote; and

7.1.3.1.5.6 no PV Professional and Green Card Member shall be eligible to vote.

7.1.3.2 Appointments within the Management Committee

7.1.3.2.1 The Management Committee shall, from one of their number, elect:

7.1.3.2.1.1 a vice-chairperson ("the **Vice-Chairperson**"); and

7.1.3.2.1.2 a treasurer ("the **Treasurer**").

7.1.3.2.1.3 a spokesperson ("the **Spokesperson**")

7.1.3.2.2 The persons mentioned in 7.1.3.2.1 shall be elected by way of a secret ballot, if so requested by a Commissioner, and the appointments shall be decided by a Simple Majority of votes.

7.1.4 **Remuneration**

Commissioners shall not be entitled to be remunerated for the office. Commissioners shall be paid all reasonable travelling and other out-of-pocket expenses necessarily incurred by them in the course of the business of the Association, provided that such expenses have been approved by the Chief Executive Officer in accordance with the applicable policy of the Association, before such expenses being incurred.

7.2 **Chairperson**

7.2.1 The chairperson elected in terms of article 7.1.3.1 ("the **Chairperson**") shall ensure that all the affairs of the Association are dealt with in an orderly and efficient manner.

7.2.2 Without limiting the generality of 7.2.1, the Chairperson shall:

7.2.2.1 co-ordinate the Management Committee to ensure that appropriate policies and procedures are in place for the effective management of the Association;

- 7.2.2.2 ensure that meetings are effectively planned and conducted in a manner that upholds this Constitution;
- 7.2.2.3 preside over General Meetings, Special General Meetings and meetings of the Management Committee;
- 7.2.2.4 ensure full participation in all of the meetings mentioned in 7.2.2.3; and
- 7.2.2.5 ensure that all relevant matters are addressed, and that efficient decisions are made and carried out.

7.2.3 The Chairperson may, from time to time, be called upon to represent the Association in a public forum.

7.2.4 The Chairperson shall perform such other and further functions as are typically associated with the office of the Chairperson.

7.3 **Vice-Chairperson**

- 7.3.1 The Vice-Chairperson shall assist the Chairperson in his or her duties and may be called upon, from time to time, to assume the functions of the Chairperson in the event that the Chairperson is unable to do so.
- 7.3.2 The Vice-Chairperson shall perform such other and further functions as are typically associated with the office of the Vice-Chairperson.

7.4 **Treasurer**

- 7.4.1 The Treasurer shall be a person with financial qualifications.
- 7.4.2 The Treasurer shall, in consultation with the Management Committee, manage the financial affairs of the Association, maintain the financial records of the Association, prepare and present the end of year audited financial report to the Management Committee.
- 7.4.3 Without limiting the generality of 7.4.2, the Treasurer shall:
 - 7.4.3.1 protect the Association against fraud and theft and ensure the safe custody of money;
 - 7.4.3.2 ensure that the Management Committee understands its financial obligations;

7.4.3.3 ensure that the Association complies with all relevant financial laws and regulations;

7.4.3.4 keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of all assets, liabilities, receipts, disbursements, gains and losses, which accounts shall be open to inspection by any Commissioner;

7.4.3.5 ensure that all fees and financial contributions collected are paid into the Association Bank Account promptly and in accordance with article 8.4;

7.4.3.6 disburse funds of the Association as directed by the Management Committee;

7.4.3.7 provide an account of all transactions and of the financial condition of the Association to the Management Committee, at the Management Committee's request;

7.4.3.8 report back, to the Members at the Annual General Meeting, on the finances of the Association;

7.4.3.9 make recommendations to the Management Committee and to Members on matters concerning fees and the management of the Association's finances where necessary; and

7.4.3.10 perform such other and further duties as may be required by law or as may be prescribed or required from time to time by the Management Committee.

7.4.4 The Treasurer need not personally attend to all his functions and duties and may delegate such functions and duties to an employee of the Association. Despite any such delegation, the Treasurer bears the ultimate responsibility for ensuring that all functions and duties of the Secretariat are performed.

7.5 **Chief Executive Officer**

7.5.1 The Association shall have a Chief Executive Officer who shall be a person appropriately skilled in the management and administration of associations.

7.5.2 The Chief Executive Officer shall be responsible for the day-to-day management and operation of the Association and shall report to the Management Committee.

7.5.3 Without limiting the generality of article 7.5.2 above, the Chief Executive Officer shall be responsible for the following:

7.5.3.1 in consultation with the Management Committee, to design, develop and implement the strategic objectives of the Association, raise awareness of the Association and its objectives in a manner that does not contravene this Constitution and secure the future operation of the Association;

7.5.3.2 be accountable to the Management Committee and report to the Management Committee on a regular basis;

7.5.3.3 keep, or cause to be kept, all non-financial records of the Association, including an up to date record of the Association's Members and Observers;

7.5.3.4 manage the correspondence of the Association, including ensuring that the contact details of the Association are correctly updated with any organisations with which the Association is affiliated and reporting to Members, at the Annual General Meeting, on correspondence over the preceding year;

7.5.3.5 to act as the electoral officer at meetings of the Management Committee;

7.5.3.6 to call for nominations when vacancies on the Management Committee arise or when a term of office approaches its end;

7.5.3.7 to attend all General Meetings, Special General Meetings and all meetings of the Management Committee and keep, or cause to be kept, minutes;

7.5.3.8 to ensure that minutes are kept at any meeting of any committee instituted by the Management Committee;

7.5.3.9 to circulate minutes of General Meetings, meetings of the Management Committee and where relevant, minutes of the previous Special General Meeting in advance of the next General Meeting, meeting of the Management Committee or Special General Meeting, as the case may be;

7.5.3.10 to maintain records of the Management Committee's resolutions and decisions;

7.5.3.11 to from time to time, advise Members of the Management Committee's, resolutions and decisions;

7.5.3.12 to maintain records of all resolutions and decisions of any committee instituted by the Management Committee;

7.5.3.13 where relevant, advise Members, the Management Committee and the Executive Director of the resolutions and decisions of any committee instituted by the Management Committee;

7.5.3.14 keep all relevant documentation of the Association and the Management Committee at the principal office of the Association or at such other place as the Management Committee may direct, including an up to date copy of this Constitution and of the resolutions and decisions of the Management Committee and the Annual General Meeting;

7.5.3.15 give any required notices of any meetings in terms of this Constitution; and

7.5.3.16 to manage and direct the Secretariat;

7.5.3.17 to perform such other and further duties as may be required by law, or as may be prescribed or required, from time to time, by the Management Committee.

7.5.4 The Chief Executive Officer need not personally attend to all his or her functions and duties and may delegate such functions and duties to other members of the Secretariat. Despite any such delegation, the Chief Executive Officer bears the ultimate responsibility for ensuring that all

functions and duties of the Chief Executive Officer are duly and timeously performed.

7.6 **Secretariat**

7.6.1 The Association shall have a Secretariat as determined by the Management Committee from time to time. The Secretariat shall include the Chief Executive Officer and any other position employed directly by the Association as determined by the Management Committee from time to time.

7.6.2 **The Secretariat shall fulfil all functions and duties as determined by the Management Committee from time to time.**

7.6.3 At least one member of the Secretariat shall attend all meetings of the Management Committee but shall not be eligible to vote. The Management Committee may direct any further members of Secretariat to attend meetings of the Management Committee from time to time.

7.7 **Vacancies in the Management Committee**

7.7.1 In the event of any vacancy arising in the Management Committee and irrespective of the manner in which vacancy arose, vacancies shall be filled as follows:

7.7.1.1 If a vacancy arises less than three (3) months before the next Management Committee elections, the Management Committee shall have the discretion to decide not to fill the vacancy.

7.7.1.2 If a vacancy three (3) months or longer before the next Management Committee Elections (or if the Management Committee decides to fill a vacancy as contemplated in 7.7.1.1), the Secretariat shall:

7.7.1.2.1 solicit nominations for new Commissioners from fully paid-up Sponsor and Ordinary Members; and

7.7.1.2.2 provide a suitable opportunity for all paid up Sponsors, Ordinary Members and Associates Members to vote.

7.7.2 The provisions of article 7.1.3.1.5 shall apply in respect of any vote provided pursuant to this article 7.7.1.2.

7.7.3 Following the election of any Commissioner in terms of article 7.7.1, the Management Committee shall have the discretion to reallocate Management Committee portfolios or functions.

7.7.4 If insufficient nominations are received to fill the positions on the Management Committee, those Commissioners voted onto the Management Committee shall ensure that a second voting opportunity is provided to fill the vacancies in the Management Committee, in terms of article 7.7.1., within one month of their appointment onto the Management Committee.

7.7.5 If, following the procedure detailed in article 7.7.4:

7.7.5.1 insufficient nominations are received in respect of the vacant Management Committee seats, or

7.7.5.2 sufficient nominations are received and paid up Sponsors, Ordinary Members and Associate Members vote in a manner that is inconclusive, those Commissioners voted onto the Management Committee in terms of articles **Error! Reference source not found.** and 7.7.4 shall be entitled to:

7.7.5.2.1 fill any vacancies on the Management Committee as they deem fit; or

7.7.5.2.2 to exercise the powers and perform the functions of the Management Committee provided that a minimum of five (5) Commissioners are appointed to the Management Committee in terms of articles 7.1.3 and 7.7.4.

7.7.6 Paid up Sponsors, Ordinary Members and Associate Members vote in a manner that is inconclusive when the results of any voting opportunity are such that no nominees can be appointed onto the Management Committee on the basis of a simple majority of votes. An example of this would be where there are more nominees than seats than seats available on the Management Committee and each nominee receives an equal number of votes.

7.8 Meetings of the Management Committee

7.8.1 The Management Committee shall meet at such times as the Chairperson may deem necessary but shall meet at least four (4) times a year.

7.8.2 The number of Commissioners required to constitute a quorum shall be that number that is two (2) less than the number of incumbent Commissioners. Therefore, if there are seven (7) Commissioners, five (5) shall constitute a quorum and if there are ten (10) Commissioners, eight (8) Commissioners shall constitute a quorum.

7.8.3 All meetings shall be chaired by the Chairperson or in the absence of such, the Vice-Chairperson. In the absence of the Chairperson and the Vice-Chairperson, the Commissioners in attendance shall, by majority vote, elect one of their number to preside over the meeting. The elected Commissioner shall, for the duration of that meeting, be vested with the rights, power and duties of a Chairperson.

7.8.4 Decisions shall be taken by Simple Majority show of hands. Should there be an equality of votes, the matter shall be decided by a Simple Majority vote of all paid up Sponsor and Ordinary Members voting in such manner and form as shall be determined by the Management Committee. For any voting process adopted pursuant to this article 7.8.4, regard shall be had to the weighting of votes provided for in article 6.7 above.

7.8.5 The Management Committee may make decisions by round-robin email and may have meetings by way of teleconference.

7.8.6 Any decision approved unanimously in writing (including email) need not comply with any further formal requirements.

7.8.7 The Management Committee shall ensure that each of its decisions is communicated appropriately to Members.

7.9 Powers of the Management Committee

7.9.1 The Management Committee shall have such powers as are needed to achieve the objectives of the Association. Such powers shall be limited to those powers necessary to achieve the objectives of the Association as stated in this Constitution, and to ensure good governance of the

Association, which powers shall include the powers to contract and to delegate authority.

7.9.2 Without limiting the generality of 7.9.1, the Management Committee shall have the power to:

- 7.9.2.1 make, amend or rescind regulations for the administration of the affairs of the Association within the scope of this Constitution;
- 7.9.2.2 appoint committees from among its Members or otherwise for such purpose and upon such terms as may be considered desirable and to delegate such powers thereof as may be necessary;
- 7.9.2.3 summon, at any time, a General Meeting or Special General Meeting of the Association;
- 7.9.2.4 suspend or exclude a Member from the Association;
- 7.9.2.5 purchase and sell movable and immovable property and to invest any funds not immediately required by the Association in such manner as it may decide;
- 7.9.2.6 open banking accounts in the name of the Association and to resolve the manner of operation of such accounts;
- 7.9.2.7 depute and authorise officers of the Association to act on its behalf in the acquisition and alienation of property or in the investment of its funds and in the conduct of any legal or other proceedings brought against the Association;
- 7.9.2.8 appoint any person to represent the Association on any other body that the Management Committee considers necessary or expedient;
- 7.9.2.9 implement resolutions based by the General and Special General Meetings of the Association; and
- 7.9.2.10 charge interest on any arrear fees at such rate and in such manner as it may from time to time decide.

7.10 Removal from the Management Committee

7.10.1 Ordinary Member Commissioners

7.10.1.1 If, and only if, the Management Committee receives a written motivation for the removal of the Commissioner that:

7.10.1.1.1 details all reasons for the removal sought; and

7.10.1.1.2 is brought by any paid-up Sponsor or Ordinary Member and seconded by any four (4) paid-up Sponsor and Ordinary Members of the Association,

the Management Committee shall table the motivation as a motion at the next General Meeting or at any Special General Meeting called to settle the matter. The matter shall be settled by Secret Ballot.

7.10.1.2 Should any Commissioner fail to attend three (3) consecutive meetings of the Management Committee without excuse, the Management Committee may, by a 66.66% majority of the entire Management Committee, regard such Commissioner as having resigned from the Management Committee.

7.10.1.3 Any vacancies arising in the Management Committee in terms of articles 7.10.1 and 7.10.1 shall be filled according to the provisions of article 7.7.

8. Funds and Accounts

8.1 Books of account of the affairs of the Association shall be kept by the Management Committee and such books, together with all other papers and documents connected with or relating to the business or the affairs of the Association, shall at all times be accessible to the Commissioners of the Management Committee. A statement of the financial affairs of the Association shall be prepared annually.

8.2 The Association's Funds and Accounts shall be under the ultimate administration of the Treasurer.

8.3 Any profits, gains, donations or sponsorships which may accrue to the Association shall not be distributed to any person, but shall be employed solely for the purpose of investment or for the carrying out of the Association's objectives. No portion

therefore may be paid, or directly or indirectly transferred by any means, to the Association's Commissioners or other office bearers and Members, provided that the foregoing shall not prevent the payment in good faith of reasonable remuneration to any Commissioner or other office bearer and Member in return for services actually rendered to the Association.

- 8.4 The Treasurer, at the direction of the Management Committee, shall open a bank account on behalf of the Association and in the name of the Association ("the **Association Bank Account**") in any one of ABSA, Standard Bank, First National Bank, Nedbank or Investec.
- 8.5 All monies paid to or received by the Association shall, from time to time, be deposited into the Association Bank Account within seven (7) ordinary business days of their receipt, and shall be withdrawn therefrom from time to time as may be required.
- 8.6 All expenditure incurred by or on behalf of the Association, and in general, all cheques or forms of withdrawal from the Association Bank Account or any other account opened, at the direction of the Management Committee, in the name of and on behalf of the Association shall duly be authorised by the Management Committee.
- 8.7 The authorisation required by article 8.6 be two (2) signatures, one belonging to the Treasurer, and one belonging to either the Chairperson or the Vice-Chairperson.
- 8.8 The Association Bank Account and any other account opened, at the direction of the Management Committee, in the name of and on behalf of the Association shall be audited annually and reported upon by an auditor or auditors appointed in terms of Article 9.
- 8.9 The funds shall be under the administration of the Treasurer.

9. **Auditors**

- 9.1 Auditors shall be appointed to the Association at each Annual General Meeting.
- 9.2 The auditors referred to in article 9.1 shall be a firm of South African chartered accountants in good repute.

- 9.3 The auditors appointed at each Annual General Meeting shall hold office until the next Annual General Meeting when, such auditors shall retire, but be eligible for re-appointment.
- 9.4 The remuneration of the auditors shall be fixed at the Annual General Meeting of the Association.
- 9.5 The auditors shall at all times have access to the books of account of the Association and may, in relation thereto, examine minutes of Management Committee meetings.
- 9.6 Casual vacancies in the office of auditor shall be filled by the Management Committee and any person so appointed shall hold office until the next Annual General Meeting, when such person shall retire, but be eligible for re-appointment.
- 9.7 The auditors shall report to the Members at the Annual General Meeting.

10. **Financial Year**

The financial year of the Association shall be 31 March, or such other date as may be determined by the Management Committee from time to time.

11. **Meetings of the Association**

- 11.1 Periodicity
 - 11.1.1 The Management Committee shall convene at least one (1) meeting of Members per annum ("**General Meetings**"), which shall be the annual general meeting ("**Annual General Meeting**").
 - 11.1.2 The Management Committee may also, from time to time and as the need arises, convene:
 - 11.1.2.1 Special General Meetings; and
 - 11.1.2.2 informal meetings open to all Members and guests invited by the Management Committee.

11.2 General Meetings

11.2.1 Objects of the General Meetings

The Chairperson shall:

- 11.2.1.1 present, or cause to be presented, a report on audited financial statements and the operations of the Association to the Members and Participants;
- 11.2.1.2 provide opportunities for Members, in a session at which only Members are present, to:
 - 11.2.1.2.1 determine the policies and strategic deliverables of the Management Committee; and
 - 11.2.1.2.2 debate and set organisational strategies and policies of the Association.

11.2.2 Quorum

- 11.2.2.1 A quorum at any General Meeting shall be 33.33% of Sponsors and Ordinary Members in good standing.
- 11.2.2.2 If a quorum is not present within 30 minutes from the time appointed for any meeting, the meeting shall be adjourned to a venue and time to be decided by the Management Committee. The Sponsors and Ordinary Members present in the latter meeting may, if they so decide and irrespective of their number, proceed with the business of original General Meeting as if a quorum were present.

11.2.3 Procedure prior to General Meetings

- 11.2.3.1 The Secretariat shall give at least thirty (30) days' notice, in writing, of such meetings to each Member, which notice shall stipulate the date, location and the time of the relevant meeting and include documents setting out the business to be discussed or transacted including but not limited to:

- 11.2.3.1.1 provisional agendas for the meeting;

- 11.2.3.1.2 minutes of the previous General Meeting;
- 11.2.3.1.3 financial statements in respect of the previous financial year;
- 11.2.3.1.4 nomination forms for election of Commissioners to the Management Committee, which forms must include acceptance by nominees;
- 11.2.3.1.5 last dates for the receipt of nominations and motions; and
- 11.2.3.1.6 motion papers if required.

11.2.3.2 The Management Committee, or any fully paid-up Sponsor or Ordinary Member who is supported by another fully paid-up Sponsor or Ordinary Member may require the Secretariat to place on the General Meeting agenda, any motion or motions. Each requisition shall be made to the Secretariat at least 3 weeks before the time appointed for the General Meeting.

11.2.3.3 The Secretariat shall send the final agenda ("the **Final Agenda**") including all proposed motions together with a list of all valid nominations for Management Committee Commissioners to all Members in terms of Article 11.2.3.1 above.

11.2.3.4 Submissions for resolutions must be received at least three (3) weeks prior to the General Meetings.

11.2.3.5 If no General Meeting is summoned within eighteen (18) months of the last such meeting, then a General Meeting may be called by any two (2) Sponsors or Ordinary Members in good standing, by advertisement in a newspaper with national circulation, giving not less than thirty (30) days' notice of the time and place of the meeting. The General Meeting so called shall be a valid General Meeting for all purposes including the election of Commissioners.

11.2.4 Proceedings at the General Meetings

11.2.4.1 Save as is otherwise provided for by this Constitution or by a direction given at any prior General Meeting, the proceedings at the General

Meeting shall be chaired by Chairperson, and in his absence the Vice-Chairperson.

11.2.4.2 Other than in the case of a meeting convened in terms of article 11.2.3.5, in respect of which the restrictions detailed in this clause 11.2.4.2 shall not apply, meetings shall be confined to matters identified on the Final Agenda, and no resolution or specific matter of which notice has not been given shall be put to the vote at a General Meeting, provided that the Chairperson shall, in his discretion, have the right to permit any amendment of the wording of a resolution to be moved, despite no notice having been given of the intention to move such amendment.

11.2.4.3 The Secretariat shall take minutes of the proceedings at the General Meetings, which minutes shall be made available for inspection by the Members as soon as possible after the General Meeting.

11.2.4.4 The Management Committee shall consult the Sponsors and Ordinary Members and, where necessary, Associates during a General Meeting on any matters of substance.

11.2.5 **Representation and voting at General Meetings**

11.2.5.1 At every meeting:

11.2.5.1.1 a resolution put to the vote of the meeting shall be decided by Simple Majority on a show of hands unless a poll is demanded before or on the declaration of the result of the show of hands; and

11.2.5.1.2 all motions or matters on which a decision is to be taken shall be decided by show of hands and be reflected in the minutes of that General Meeting.

11.2.5.2 Unless the poll in article 11.2.5.1.1 is demanded, a declaration by the Chairperson that a resolution has been carried out or lost, or that a decision has been taken, and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact, without proof of the number or proportion of votes recorded in favour of or against such resolution or decision, as the case may be.

11.2.5.3 If the poll in article 11.2.5.1.1 is demanded:

11.2.5.3.1 it shall be taken in such manner as the Chairperson directs;

11.2.5.3.2 regard shall be had to the weighting of votes provided for in article 6.7 of this Constitution in computing the majority of the vote;

11.2.5.3.3 scrutineers shall be elected to declare the result of the poll; and

11.2.5.3.4 the scrutineers' decision shall be given by the Chairperson and shall be deemed to be the resolution of the meeting at which the poll is demanded.

11.2.5.4 If the Nominated Representative of a Member is present at any General Meeting, the Alternate Representative may attend the meeting and participate in the discussion but may not vote on behalf of the Member concerned.

11.2.5.5 Any person invited by the Management Committee to attend and take part in discussions at any General Meeting may do so, but shall have no right of voting.

11.2.5.6 Members shall, by Special Resolution, have the right to override and rescind any decision or resolution of the Managing Committee to the extent that rights and obligations have not already been obtained and undertaken by the Association arising out of the decision of the Managing Committee.

11.2.5.7 Unless this Constitution expressly requires Special Resolutions, all questions arising at meetings of Members shall be decided by a Simple Majority of votes.

11.2.5.8 If any Member, having been given notice, in writing, by the Secretariat of the amount of any fee due by such Member and the date on which such fee is payable, has failed to pay the amount concerned within two (2) months of that date and the fee is still outstanding on the date for which any General Meeting of the Association is originally called, the representative of that Member shall not be entitled to attend or to take

part in the proceedings of the meeting or any adjournment thereof and further, shall not be allowed to vote.

11.3 **Annual General Meeting**

11.3.1 There shall be an Annual General Meeting held on a date and at a venue to be determined by a resolution passed by Sponsors and Ordinary Members at a General Meeting.

11.3.2 In determining the date of the Annual General Meeting, the provisions of article 7.1.2.2 shall be taken into account.

11.4 **Special General Meetings**

11.4.1 **Periodicity**

11.4.1.1 The Management Committee may convene a special general meeting of the Association ("**Special General Meeting**") at any time, for the consideration of special business.

11.4.1.2 The Management Committee must convene a Special General Meeting within thirty (30) days of the date on which a written request that a Special General Meeting be convened, is lodged by the representatives of at least seven (7) Members with the Secretariat.

11.4.2 **Notice**

The Secretariat shall give to each Member at least seven (7) days' notice, in writing, of each Special General Meeting, or such shorter time as the Management Committee may decide, provided that such shorter period of notice, if given, shall not be less than is reasonably necessary to permit the representatives of Sponsors and Ordinary Members to attend the meeting concerned.

11.4.3 **Proceedings at the Special General Meeting**

The Management Committee shall consult Sponsors and Ordinary Members and, where necessary, Associates during a General Meeting on any matters of substance.

11.4.4 **Quorum**

11.4.4.1 A quorum shall be 33.33% of the Members in good standing.

11.4.4.2 If a quorum is not present within thirty (30) minutes of the notified starting time of any Special General Meeting:

11.4.4.2.1 convened in terms of article 11.4.1, then the provisions of article 11.2.2.2 shall *mutatis mutandis* apply; or

11.4.4.2.2 convened in terms of article 11.4.1.2, then the Special General Meeting will lapse.

12. **Observers**

12.1 On request by Members or external entities, the Management Committee may invite the representative of private or public entities to attend General Meetings or Special General Meetings as observers ("**Observers**").

12.2 Observers shall have no voting powers but may be invited, by the Chairperson, to participate in or address the meetings.

13. **Minutes and records**

13.1 Records of the correspondence and transactions of the Association shall be kept.

13.2 Minutes of the following meetings shall be kept:

13.2.1 General Meetings of the Association;

13.2.2 Special General Meetings of the Association;

13.2.3 meetings of the Management Committee; and

13.2.4 meetings of any committees or working groups of the Association.

13.3 Minutes shall be made available for inspection by Members, Commissioners or committee members, as the case may be, as soon as possible after the applicable meeting.

14. External Communication

14.1 Except as provided for in articles 6.4.5 and 7.2.3, any external communication from the Association shall only be made by the Spokesperson, acting on instructions from the Management Committee, provided that the Management Committee shall not instruct the Spokesperson to make any communication that is contrary to this Constitution or to the objectives of the Association.

14.2 No Member shall make any external communication on behalf of the Association.

15. Use of the Association and its name by third parties

No third party may use the Association or the name of this Association directly or indirectly for commercial gain.

16. Indemnity

All Commissioners and employees and any other office bearer of the Association shall be indemnified by the Association against all costs, losses, expenses and liabilities incurred by reason of any contract entered into or any act or deed or omission performed or attributable to them in their capacity as such or in any way in the discharge of their duties.

17. Notices

17.1 Any notices for all purposes of this Constitution shall be in writing.

17.2 Notice shall be deemed to have been received by the Member to whom it is addressed:

17.2.1 at the time of delivery if it is sent via facsimile or email, couriered or delivered by hand; and

17.2.2 on the 7th day following the posting in the Republic of South Africa, excluding the day on which it is posted.

18. *Domicilium citandi et executandi*

The *domicilium citandi et executandi* of the Association shall be:

Eastgate Office Park
South Boulevard Road

Bruma
Johannesburg
2198

19. Changes to the Constitution

This Constitution may only be amended by:

- 19.1 a Special Resolution of the Members in favour of such amendment;
- 19.2 a minimum of 75% of the respondents in an electronic poll of paid-up Sponsors. Ordinary Members and Associates voting in favour of such amendment; or
- 19.3 a minimum of 75% of the paid up Sponsors, Ordinary Members and Associates voting, by Secret Ballot or consensus, at a General Meeting in favour of such amendment.

20. Dissolution

- 20.1 The Association shall be dissolved:

- 20.1.1 in accordance with the laws of South Africa; and
 - 20.1.2 by a resolution passed at a Special General Meeting, called in accordance with article 11.4, provided that:
 - 20.1.2.1 the Secretariat gives a minimum of thirty (30) days' notice of the meeting, in writing, to each Member;
 - 20.1.2.2 voting takes place by Secret Ballot; and
 - 20.1.2.3 a Special Resolution is passed in favour of such dissolution by Sponsors, Ordinary Members and Associates present and entitled to vote at the meeting referred to in this article 20.1.2; or
 - 20.1.2.4 by a minimum 75% of the Sponsors, Ordinary Members and Associates in good standing, voting by electronic vote, in favour of such dissolution.

20.2 For the purposes of article 20.1, all paid up Sponsors, Ordinary Members and Associates shall be allowed to vote but regard shall be had to the weighting of the votes detailed in article 6.7 above.

20.3 Upon dissolution of the Association, any surplus of assets over liabilities shall, at the discretion of the incumbent Management Committee and subject to 75% of the Management Committee voting in favour of such disposition, be given or transferred to any non-profit association having similar objectives to the main objective of the Association.